

## My Comment on file Number 4-590

To Elizabeth M. Murphy, Secretary, Securities

Even when you have and after you have The roundtable on Additional short sale disclosures, pre borrowing requirements, short sale disclosures. The market will still have the loop holes in it that will keep the door open

The SEC has permitted billions, if not trillions, of unregistered and counterfeit shares to be sold in the name of companies by brokers and dealers.

Those shares will never be delivered to ordinary investors, thus destroying the investments of these investors and their retirement savings.

This further dilutes and destroys the market value and stock prices of thousands of companies, forcing them to downsize or go out of business and thus resulting in the loss of jobs for tens of thousands of their employees. In addition, trillions of unpaid tax dollars are not being paid to the government which, if paid, would have eased the tax burden on all ordinary taxpayers and have paid off most of our National Debt

When you have had 30 years to try to get short sale to work you have left loop holes in it or fell short on the enforcement of the laws they have in place now.

So they should stop kidding there self and stop letting the violations, including outright theft, price manipulation, insider trading, and misrepresentation continuo anymore and do the right thing and ELIMINATI of The Stock Borrow Program and end the stock short sale program.

**(Whereas):** The Stock Borrow Program has not worked for over 30 years

**(Whereas):** The Stock Borrow Program lets naked short sales (NSS) and failed to delivers (FTD) happen every day destroying our economy.

**(Whereas):** The Stock Borrow Program has opened the door to let Market Makers, Brokers, and other group who profit from it do so and strip companies and shareholders and this Country of money that they have worked so hard for.

**(Whereas):** The Stock Borrow Program has defrauded investors of 500% more money than Bernard Madoff. Over the last 30 years and is more massive than any Ponzi scheme.

The Stock Borrow Program has lost more jobs for employees closed more companies and wiped out more 401-ks. Those who take advantage of the failed Stock Borrow Program have seriously manipulated the financial regulators Such as The Securities and Exchange Commission (SEC) has been unwilling to take the appropriate actions due to a conflict of interest.

**(Whereas):** The Securities and Exchange Commission (SEC) was created in 1934, in the midst of the Great Depression, to restore investor confidence in U.S. capital markets. The laws that created the SEC were designed to ensure that companies selling securities must tell the public the truth about their businesses, the securities they sell and the risks

involved. The SEC may investigate a wide range of violations, including outright theft, price manipulation, insider trading, and misrepresentation.

FINRA - The Financial Industry Regulatory Authority (FINRA) was created in July 2007 through the consolidation of the National Association of Securities Dealers (NASD) and the member regulation, enforcement and arbitration functions of the New York Stock Exchange. FINRA registers and educates financial service professionals, writes and enforces rules, enforces federal securities laws, and educates individual investors.

NASAA - The North American Securities Administrators Association (NASAA) licenses brokerage firms and their agents, investigates violations of state laws, files enforcement actions, and educates the public about investment fraud.

**(Whereas):** It is clear to see what the Securities and Exchange Commission (SEC) and what they have not done to look out for the Investors and companies in this country.

**(THEREFORE):** In the interests of this Country and every American. We ask that you use the powers you have as they were intended for.  
And ELIMINATE The Stock Borrow Program stock short sale program.

Make every FDT and NSS cover what they sold over the years that they did not own. Make this a priority and help eliminate the corruption in the capital markets. You can give all the money in the world at our markets and it will not FIX the problem.

**This is why the short sale can't work and has not worked.**

## References

- 1. Knepper, Zachary T (2004). "Future-Priced Convertible Securities & The Outlook For "Death-Spiral" Securities-Fraud Litigation" (pdf). Bepress Legal Repository. Berkeley Electronic Press. page 15.** Securities are alleged to have used the securities in manipulative short-selling schemes <http://law.bepress.com/cgi/viewcontent.cgi?article=1917&context=expresso>.
- 2. Emshwiller, John R., and Kara Scannell (July 5, 2007). "Blame the 'Stock Vault'?"The Wall Street Journal** These "failures to deliver" have put DTCC in the middle of a long-running fight over whether unscrupulous investors are driving down hundreds of small companies' share prices At issue is a nefarious twist on short-selling [http://online.wsj.com/public/article/SB118359867562957720-5Yb1Y\\_mpc19a2nKbc0laV0tDHyk\\_20070712.html](http://online.wsj.com/public/article/SB118359867562957720-5Yb1Y_mpc19a2nKbc0laV0tDHyk_20070712.html).
- 3. Ellis, David (September 17, 2008). "SEC puts 'naked' short sellers on notice". [www.cnn.com](http://www.cnn.com).** Some market observers have blamed the recent wild swings in financial markets and steep decline in financial stocks on the practice of "naked" short selling. [http://money.cnn.com/2008/09/17/news/companies/sec\\_short\\_selling/index.htm](http://money.cnn.com/2008/09/17/news/companies/sec_short_selling/index.htm)
- 4. "Key Points About Regulation SHO". Securities and Exchange Commission. April 11, 2005.** For example, market makers who sell short thinly traded, illiquid stock in response to customer demand

may encounter difficulty in obtaining securities when the time for delivery arrives.  
<http://www.sec.gov/spotlight/keyregshoissues.htm>. Retrieved on 2008-10-19.

**5. "Division of Market Regulation: Responses to Frequently Asked Questions Concerning Regulation SHO" Securities and Exchange Commission.** A short sale is the sale of a security that the seller does not own.

<http://sec.gov/divisions/marketreg/mrfaqregsho1204.htm>. Retrieved on 2008-10-19.

---

**6. Searching for the naked truth, The Economist, The real problem with abusive short-selling Aug 17, 2008**

[http://www.economist.com/finance/PrinterFriendly.cfm?story\\_id=11951246](http://www.economist.com/finance/PrinterFriendly.cfm?story_id=11951246).

**7. Gordon, Marcy (2008-09-17). "SEC adopts rules against 'naked' short-selling". Associated Press** <http://www.iht.com/articles/ap/2008/09/17/business/NA-US-SEC-Short-Selling.php> Retrieved on 2008-10-18.

---

**8. Gordon, Marcy (September 18, 2008). "New SEC Rules Target 'Naked' Short-Selling". Associated Press.** SEC Chairman Christopher Cox said he planned to ask his four fellow commissioners to consider on an emergency basis a new rule that would require hedge funds and other large-scale investors to disclose their short positions -- the stocks they have borrowed and sold but not yet replaced. <http://www.washingtonpost.com/wp-dyn/content/article/2008/09/17/AR2008091703631.html>

**9. Watch Out, They Bite! by Daniel Kadlec, November 9, 2005, Time magazine** Naked short selling "has got to push the price down," says James Angel, associate professor of finance at Georgetown University. He says the rate of short selling has nearly doubled in the past five years, to 36% of all trades. In the same period, assets held in hedge funds, which are active short sellers, more than doubled, to more than \$1 trillion <http://www.time.com/time/magazine/article/0,9171,1126706-3,00.html>

**10. "The Naked Truth on Illegal Shorting". [www.fool.com](http://www.fool.com)** Because they see them as people who are rooting for others (companies and investors) to fail.

<http://www.fool.com/investing/dividends-income/2008/09/22/the-truth-about-naked-shorts.aspx>

---

Retrieved on 2008-03-12.

---

**11. SEC we cannot guarantee the ACCURACY OF THE Fails-to-Deliver Data.**

Fails-to-deliver shares reported the day prior or the day after and

Prior to July 2009, the files contain each settlement date over a calendar month. The monthly files are archived in a zipped file for each calendar quarter. We cannot guarantee the accuracy of the data.

<http://www.sec.gov/foia/docs/failsdata.htm>.

**12. Suddath, Claire. "A Brief History of Short Selling", Time magazine, Short selling creates people who want the market to go down**

They existed in the Netherlands in 1637, when the escalating price of tulip bulbs suddenly plummeted. (The Dutch, in fact, were the first to ban shorting, back in 1610, when they decided it probably wasn't a good idea to sell something you didn't own).

**September 22, 2008 More recently, short selling has been blamed for helping precipitate the Asian financial crisis of the late 1990s;** billionaire financier George Soros famously netted more than \$1 billion by shorting the British pound in 1992

<http://www.time.com/time/business/article/0,8599,1843255,00.html>

**13. "The SEC finally steps in; As other regulators hustle to address the economy, the Securities and Exchange Commission needs to better enforce laws already on its books". Los Angeles Times. July 17, 2008. <http://www.latimes.com/classified/realestate/news/la-ed-sec17-2008jul17,0,5572972.story>**

---

**14. "For many Years would say there has been little or no evidence of extensive "naked short selling" that Depository Trust and Clearing Corporation (DTCC). New York, January 24, 2006 - Despite extensive examinations by the SEC and the markets, **there has been little or no evidence of extensive "naked short selling" to date, according** to comments made at a recent forum held by the North American Securities Administrators Association (NASAA). **January 24, 2006. <http://www.dtcc.com/news/press/releases/2006/sho.php>****

## **14A, CRS Report for Congress Regulation of Naked Short Selling**

March 30, 2005 Order Code RS22099

<http://digital.library.unt.edu/govdocs/crs/permalink/meta-crs-8317:1>

## **14B, CRS Report for Congress Regulation of Naked Short Selling**

Updated October 03, 2006 Order Code RS22099

<http://digital.library.unt.edu/govdocs/crs/permalink/meta-crs-9568:1>

### **15. "Fails-to-Deliver Data". [www.sec.gov](http://www.sec.gov).**

<http://www.sec.gov/foia/docs/failsdata.htm> Retrieved on 2008-03-12

**We Know they say we cannot guarantee the ACCURACY OF THE Fails-to-Deliver Data. What can they guarantee?**

### **16. "SEC Issues New Rules to Protect Investors Against Naked Short Selling Abuses", Press release, Securities and Exchange Commission, September 17, 2008**

**"And even with all the new rules the abuses still can be used to manipulate the price of securities**

<http://www.sec.gov/news/press/2008/2008-204.htm>

### **17. Outside forces were now manipulating our stock**

**August 29, 2005. <http://www.thestreet.com/story/10240003/1/naked-truth-dressed-to-baffle.html>  
Retrieved on 2008-04-03.**

**18. Alistair Barr (June 14, 2006). Like mainstream short strategies, naked shorting is also a way to bet on a stock dropping "Naked' short selling is center of looming legal battle; Companies on the defensive seize upon an aggressive form of shorting". MarketWatch**

---

<http://www.marketwatch.com/news/story/naked-short-selling-center-looming/story.aspx?guid={4B3FE0D6-1EFF-4986-83B3-54F21475CA1C}>.

**19. "Key Points about Regulation SHO", Security and Exchange Commission Compliance with Regulation SHO began on January 3, 2005.** Regulation SHO was adopted to update short sale regulation in light of numerous market developments since short sale regulation was first adopted in 1938.

<http://www.sec.gov/spotlight/keyregshoissues.htm>

**20. University of Cincinnati College of Law. "Securities Lawyer's Deskbook, Rule 203".**

<http://www.law.uc.edu/CCL/regSHO/rule203.html>

**21. University of Cincinnati College of Law. "Securities Lawyer's Deskbook, Rule 200".**

<http://www.law.uc.edu/CCL/regSHO/rule200.html>

**22. United States Securities and Exchange Commission. "Proposed SEC 17 CFR PART 242 (Release No. 34-54154; File No. S7-12-06) RIN 3235-AJ57 Amendments to Regulation SHO" (PDF).** <http://www.sec.gov/rules/proposed/2006/34-54154.pdf>

**23. Christopher Cox (July 12, 2006). "Opening Statements at the US Securities and Exchange Commission Open Meeting" Selling short without having stock available for delivery, and intentionally failing to deliver stock within the standard three-day settlement period, is market manipulation that is clearly violative of the federal securities laws.**

<http://www.sec.gov/news/speech/2006/spch071206cc2.htm>

**24. "What is short selling?". The Hindu Business Line. December 23, 2007.**

<http://www.thehindubusinessline.com/2007/12/24/stories/2007122451310200.htm>

---

**25. "Sebi allows all to sell short". The Financial Express. March 22,2007.**

[http://www.financialexpress.com/fe\\_full\\_story.php?content\\_id=158750](http://www.financialexpress.com/fe_full_story.php?content_id=158750)

**26. Floyd Norris (June 14,2007). "S.E.C. Ends Decades-Old Price Limits on Short Selling". The New York Times. <http://www.nytimes.com/2007/06/14/business/14sec.html?ref=business>**

**27. "US Chamber Urges Further SEC Curbs On Naked Short Sales," Dow Jones News Service, September 14, 2007**

**28. Video of Christopher Cox, March 2008**

[http://www.sec.gov/news/speech/2008/video0030408cc\\_short.wmv](http://www.sec.gov/news/speech/2008/video0030408cc_short.wmv)[http://www.sec.gov/news/speech/2008/video0030408cc\\_short.wmv](http://www.sec.gov/news/speech/2008/video0030408cc_short.wmv)

**29. Judith A. Burns, "SEC Proposes Teeth for Short-Selling Rules", Wall Street Journal, March 5, 2008 [http://online.wsj.com/article/SB120468499197912561.html?mod=googlenews\\_wsj](http://online.wsj.com/article/SB120468499197912561.html?mod=googlenews_wsj)**

**30. "SEC proposes tougher 'naked' short selling rules", March 4, 2008, Reuters**

<http://www.reuters.com/article/etfNews/idUSN0446331920080304>

**31. Westbrook, Jesse (July 15, 2008). "SEC to Limit Short Sales of Fannie, Freddie, Brokers". Bloomberg.com.**

<http://www.bloomberg.com/apps/news?pid=20601087&sid=aQRBietUNVyw>

**32. a b Ivy Schmerken, "SEC Short Sale Rule Could Create a Bubble in Financial Stocks", Wall Street & Technology, July 20, 2008**

[http://www.wallstreetandtech.com/advancedtrading/showArticle.jhtml?articleID=209101993&cid=RSSfeed\\_WST\\_News](http://www.wallstreetandtech.com/advancedtrading/showArticle.jhtml?articleID=209101993&cid=RSSfeed_WST_News)

**33. "Public Statement by SEC Chairman: Naked Short Selling Is One Problem a Slumping Market Shouldn't Have", Christopher Cox, "Op-Ed" for the Investor's Business Daily, July 18, 2008**

---

<http://www.sec.gov/news/speech/2008/spch071808cc.htm>

**34. Susan Antilla (August 1, 2008). "Short Sellers in Stock Cop's Sights". Bloomberg.**  
[http://www.bloomberg.com/apps/news?pid=20601039&refer=columnist\\_antilla&sid=a17ADyiLbmAE](http://www.bloomberg.com/apps/news?pid=20601039&refer=columnist_antilla&sid=a17ADyiLbmAE)

**35. Floyd Norris (August 12, 2008). "Did It Help to Curb Short Sales?". New York Times.**  
<http://www.nytimes.com/2008/08/13/business/economy/13place.html>

**36. Marcy Gordon (August 13, 2008). "SEC's ban on short-selling Fannie, Freddie ends". Associated Press.** [http://www.usatoday.com/money/markets/2008-08-12-sec-short-selling-ban\\_N.htm](http://www.usatoday.com/money/markets/2008-08-12-sec-short-selling-ban_N.htm)

**37. Tom Petrino (August 13, 2008). "Short sellers pare bets on financials". Los Angeles Times.**  
<http://www.latimes.com/business/la-fi-moneyblog13-2008aug13,0,2983613.story>

**38. Matt Krantz (August 13, 2008). "Financial stocks suffer after protection ends". USA Today.**  
[http://www.usatoday.com/money/markets/2008-08-13-naked-short-sales\\_N.htm](http://www.usatoday.com/money/markets/2008-08-13-naked-short-sales_N.htm)

**39. "SEC Issues New Rules to Protect Investors Against Naked Short Selling Abuses", Securities and Exchange Commission, September 17, 2008** These several actions today make it crystal clear that the SEC has zero tolerance for abusive naked short selling," said SEC Chairman Christopher Cox. "The Enforcement Division, the Office of Compliance Inspections and Examinations, and the Division of Trading and Markets will now have these weapons in their arsenal in their continuing battle to stop unlawful manipulation." <http://www.sec.gov/news/press/2008/2008-204.htm>

---

---

**40. Sara Hansard, "SIFMA to sue if short-sale vote wins; Naked short selling on South Dakota ballot, Investment News, November 2, 2008** South Dakota voters will become the first in the nation to vote on whether to ban "naked short selling" — an indication of growing pressure on the hedge fund industry to curb short-selling practices.

<http://www.investmentnews.com/apps/pbcs.dll/article?AID=/20081102/REG/311039962/1027/HEDGEFUNDS>

---

**41. Aaron Siegel (November 5, 2008). "Naked short-selling ban nixed in S. Dakota" Investment News.** The Securities Industry and Financial Markets Association of Washington and New York, which had vowed to take legal action if the measure had passed, thanked the citizens of South Dakota

<http://www.investmentnews.com/apps/pbcs.dll/article?AID=/20081105/REG/811059981>

---

**42. Norris, Floyd (2009-05-01). "Goodbye to Naked Shorting". The New York Times.** Critics of naked short-selling often say it produces "counterfeit shares," but that term is misleading. Any short-seller, naked or not, takes on the same economic risks. If the price rises, the trader will lose money. If it falls, he will profit

[http://www.nytimes.com/2009/05/01/business/economy/01norris.html?\\_r=1](http://www.nytimes.com/2009/05/01/business/economy/01norris.html?_r=1)

---

**43."ASX ban on short selling is indefinite". Sydney Morning Herald. October 3, 2008** ASX says the current temporary ban on naked short selling - as part of overall short selling restrictions imposed by the Australian Securities and Investments Commission - should be continued indefinitely..

<http://news.smh.com.au/business/asx-ban-on-short-selling-is-indefinite-20081003-4t16.html>

**44. "Sebi bans overseas short-selling". The Wall Street Journal. October 28, 2008.**

The capital markets regulator's move comes after local brokers, politicians and chief executives of some firms, whose share prices fell sharply, cried foul at intense short-selling by FII

---

<http://www.livemint.com/2008/10/23001508/Sebi-bans-overseas-shortselli.html>

---

**45. Dutch invented short selling in 1609** The practice of 'naked short selling' dates back to Dutch colonial times. Published: 22 September 2008. Short sellers sell stocks they have borrowed, hoping their value will drop. Naked short selling is a similar form of speculation but the stocks are not even borrowed meaning they are unsecured

[http://www.nrc.nl/international/article1993052.ece/Dutch\\_invented\\_short\\_selling\\_in\\_1609](http://www.nrc.nl/international/article1993052.ece/Dutch_invented_short_selling_in_1609).

---

**46. "Japan Cracks Down on Naked Short Selling". Wall Street Journal. October 28, 2008.** Japan moved Tuesday imposed new restrictions on so-called "naked" short selling of stocks, stepping up its efforts to arrest the tumble in domestic share prices

[http://online.wsj.com/article/SB122518367230175569.html?mod=googlenews\\_wsj](http://online.wsj.com/article/SB122518367230175569.html?mod=googlenews_wsj)

---

**47. "More countries put bans on short selling"**U.S. market regulators issued an emergency, temporary ban on the short-selling of financial stocks Friday, a day after Britain's Financial Services Authority imposed its own four-month ban on short-selling of financial stocks

. Reuters. September 19, 2008. <http://www.iht.com/articles/2008/09/19/business/sell.php>

---

**48. Matthew Saltmarsh "More regulators move to curb short-selling"**Also Sunday, the Financial Supervisory Commission of Taiwan placed a ban on the short-selling of 150 stocks for two weeks starting Sept. 22.2008

<http://www.iht.com/articles/2008/09/21/business/short.php>

---

**49. Tomoko Yamazaki (May 18, 2009). "TCI Cuts \$1 Billion of Japanese Short Stock Positions". Bloomberg.** [http://www.bloomberg.com/apps/news?pid=20601080&sid=ay5tFHVU\\_E8M&refer=asia](http://www.bloomberg.com/apps/news?pid=20601080&sid=ay5tFHVU_E8M&refer=asia)

---

**50. Kyodo News and Bloomberg, "Government orders curbs on 'naked' short-selling of stocks", Japan Times, October 29, 2008, p. 1.**

<http://search.japantimes.co.jp/cgi-bin/nb20081029n1.html>

**51. Goh Eng Yeow (November 16, 2008). "SGX to build up penalties for 'naked' short-selling". The Straits Times.**

<http://business.asiaone.com/Business/News/My%2BMoney/Story/A1Story20081114-100716.html>

**52. "More woes for Refco, execs: Newspapers say creditors eye over \$1B insiders made from stock, while SEC probes "naked shorting"". CNN/Money. October 20, 2005.**

<http://money.cnn.com/2005/10/20/news/midcaps/refco/index.htm>

**53. "SEC Complaint against Gryphon Partners" (PDF). December 12,2006.**

<http://www.sec.gov/litigation/complaints/2006/comp19942.pdf>

**54. "Goldman Sachs fined \$2m over short-selling". TimesOnline and AP. March 15, 2007.**

<http://business.timesonline.co.uk/tol/business/law/corporate/article1519648.ece>

**55. "S.E.C. Requests Receiver for Universal Express". The New York Times. June 23, 2007.**

<http://www.nytimes.com/2007/06/23/business/23sec.html>

**56. Floyd Norris, "A Sad Tale of Fictional SEC Filings", The New York Times, June 22, 2007]**

**57. "Universal Express statement" (pdf), June 28, 2007**

<http://www.usxp.com/newyorktime.pdf>

---

**58. "Monthly Disciplinary Actions - July 2007 ", NYSE Regulation,**

Violated NYSE Rule 342 by failing to reasonably supervise certain business activities and to establish and maintain appropriate procedures for supervision and control

[http://www.nyse.com/DiscAxn/discAxn\\_07\\_2007.html](http://www.nyse.com/DiscAxn/discAxn_07_2007.html)

**59. Edgar Ortega, "Piper Fined by the NYSE Over Short-Sale Violations", Bloomberg News, July 11, 2007** <http://www.bloomberg.com/apps/news?pid=newsarchive&sid=afpYSjiXF7iE>

**60. Amex Disciplinary Decisions, ALA Trading Improperly utilized the Reg SHO market maker locate exemption to avoid locating shares prior to effecting short sale transactions July 2007**

[http://www.amex.com/atamex/regulation/discipline/2007/BArensteinALA\\_Decision\\_072007.pdf](http://www.amex.com/atamex/regulation/discipline/2007/BArensteinALA_Decision_072007.pdf)

**61. Amex Disciplinary Decisions, SBA Trading announced two final disciplinary actions for violations of Securities and Exchange Commission (SEC) Regulation SHO short sale rules in connection with trading activity in threshold securities,**

Which occurred on various options and equity exchanges. July,2007

[http://www.amex.com/atamex/regulation/discipline/2007/SArensteinSBA\\_Decision\\_072007.pdf](http://www.amex.com/atamex/regulation/discipline/2007/SArensteinSBA_Decision_072007.pdf)

**62. American Stock Exchange announcement of disciplinary action,**

**DISCIPLINARY ACTIONS FOR VIOLATIONS OF REGULATION SHO SHORT SALE RULES, SEC Rule 203, Article V, Sections 4(h) and (i) of the Amex Constitution and Amex Rule 958 July 31, 2007**

[http://www.amex.com/atamex/news/press/sn\\_regAA\\_073107.htm](http://www.amex.com/atamex/news/press/sn_regAA_073107.htm)

**63. "SEC Charges New York Hedge Fund Adviser With Short Sale Violations in Connection With Hibernia-Capital One Merger", SEC Press Release, October 10,**

Trades violated Section 10(a) of the Securities Exchange Act of 1934 and Exchange Act Rule 10a-1 and that the Sept. 2 trades violated Section 17(a)(2) of the Securities Act of 1933

Oct. 10, 2007 <http://www.sec.gov/news/press/2007/2007-216.htm>

---

**64. Heidi N. Moore, "We See Dead People: \$250K Fine for Lehman Short-Sales", Wall Street Journal, October 22, 2008**

<http://blogs.wsj.com/deals/2008/10/22/we-see-dead-people-250k-regulatory-fine-for-lehman-short-sales>

**65. "DTCC response to Wall Street Journal Article", Press release, July 6, 2007**

[http://www.dtcc.com/news/press/releases/2007/wsj\\_response.php?lpos=3&lid=3](http://www.dtcc.com/news/press/releases/2007/wsj_response.php?lpos=3&lid=3)

**66. Kaja Whitehouse (2008-11-05). "Drop in naked shorts". New York Post.**

[http://www.nypost.com/seven/11052008/business/drop\\_in\\_naked\\_shorts\\_137107.htm](http://www.nypost.com/seven/11052008/business/drop_in_naked_shorts_137107.htm)

**"In some cases, [naked short selling] may be perfectly legal, but usually it's not. efforts to take more serious actions against short selling continued yesterday**

**67. James W. Christian, Robert Shapiro & John-Paul Whalen (2006). "Naked Short Selling: How Exposed Are Investors?". Houston Law Review.**

[http://www.houstonlawreview.org/archive/downloads/43-4\\_pdf/Christian.pdf](http://www.houstonlawreview.org/archive/downloads/43-4_pdf/Christian.pdf)

**Retrieved on 2007-03-25.**

**68. Drummond, Bob (August 4, 2006). ""Naked Short Sellers Hurt Companies With Stock They Don't Have"". Bloomberg.com. <http://www.rgm.com/articles/bloomberg2.html> Retrieved on 2007-12-25.**

**69. "DTCC Chief Spokesperson Denies Existence of Lawsuit". financialwire.net. May 11, 2004.**

<http://www.rgm.com/articles/financialwire.html> Retrieved on 2007-12-25.

**70. "Senator Bennett Discusses Naked Short Selling on the Senate Floor", website of Senator Bennett, July 20, 2007, accessed 2009-02-21**

---

**71. "WayPoint Biomedical Holdings, Inc. Files Lawsuit Against The Depository Trust and Clearing Corporation (DTCC)". Genetic Engineering and Biotech News. June 25, 2007.**  
<http://www.genengnews.com/news/bnitem.aspx?name=19497609> Retrieved on 2007-12-25.

**72. "Nevada Court Dismisses Nanopierce Lawsuit Against DTCC On Naked Short Selling". Depository Trust Clearing Corporation. May 2005.**  
<http://www.dtcc.com/Publications/dtcc/may05/nanopierce.html> Retrieved on 2007-02-05.

**73. Moyer, Liz (2006-04-13). "Naked Shorts". Forbes.**  
[http://www.forbes.com/business/2006/04/13/naked-shorts-lawsuit-cx\\_lm\\_0413naked.html](http://www.forbes.com/business/2006/04/13/naked-shorts-lawsuit-cx_lm_0413naked.html)  
Retrieved on 2007-10-10.

**74. "US Judge Dismisses Naked Short Selling Suit Vs. Brokers", Dow Jones News Service, Dec. 20, 2007**  
[http://money.cnn.com/news/newsfeeds/articles/djf500/200712201132DOWJONESDJONLINE000859\\_FORTUNE5.htm](http://money.cnn.com/news/newsfeeds/articles/djf500/200712201132DOWJONESDJONLINE000859_FORTUNE5.htm)

**75. "Naked Short Victim Strikes Back". Forbes. February 2, 2007.**  
[http://www.forbes.com/2007/02/02/naked-short-suit-overstock-biz-cx\\_lm\\_0202naked.html](http://www.forbes.com/2007/02/02/naked-short-suit-overstock-biz-cx_lm_0202naked.html)  
Retrieved on 2007-10-10.

**76. Liz Moyer (July 18, 2007). "Naked Shorting Case Gains Traction". Forbes.**  
[http://www.forbes.com/wallstreet/2007/07/18/naked-shorting-overstock-biz-wallst-cx\\_lm\\_0718overstock.html](http://www.forbes.com/wallstreet/2007/07/18/naked-shorting-overstock-biz-wallst-cx_lm_0718overstock.html)

**77. "Overstock Shares Rise on Court Ruling in Broker Suit", Bloomberg News, July 18, 2007**  
<http://www.bloomberg.com/apps/news?pid=conewsstory&refer=conews&tkr=OSTK:US&sid=aPgnC8667Qbo>

---

78. **Pet Quarters, Inc. v. Depository Trust and Clearing Corp. --- F.3d ----, 2009 WL 579270 C.A.8 (Ark.),2009.**

79. **"Court Rules Against Company Claiming Illegal Short Selling" by Carol Remond, Dow Jones News Service, March 11, 2009**

80. **Amy K. Edwards and Kathleen Weiss Hanley (April 18,2007). "Short Selling and Failures to Deliver in Initial Public Offerings". [http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=981242](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=981242)**

81. **Market Regulation and Services (April 13,2007). "Results of the Statistical Study of Failed Trades".**  
<http://docs.rs.ca/ArticleFileMain.asp?Instance=100&ID=64AAACCA3D8D41B6A20FF49AB7F4770D>

82. **James Langton (April 15, 2007). "No evidence of excessive failed trades on Canadian marketplaces: study". Investment Executive.**  
[http://www.investmentexecutive.com/client/en/News/DetailNews.asp?Id=38819&cat=8&IdSection=8&PageMem=&nbNews=&IdPub=.](http://www.investmentexecutive.com/client/en/News/DetailNews.asp?Id=38819&cat=8&IdSection=8&PageMem=&nbNews=&IdPub=)

83. **Gordon, Marcy (2009-06-03). "Guidance on short-selling needed: GAO". Associated Press.**  
<http://online.wsj.com/article/SB114480254610823574.html>

84. **Holman, Jenkins (April 12, 2006). "Do Nudists Run Wall Street? (Opinion piece)". Wall Street Journal. <http://online.wsj.com/article/SB114480254610823574.html>**

Retrieved on 2008-03-16.

---

**85. Alex Blumberg (editor), "Catch It This Weekend: 'Naked Short Selling'", NPR, September 12, 2006**

[http://online.barrons.com/article/SB121702597332186163.html?mod=googlenews\\_barrons](http://online.barrons.com/article/SB121702597332186163.html?mod=googlenews_barrons)

**86. Thomas G. Donlan (July 28, 2008). "Swatting an Imaginary Fly". Barron's Magazine.**

[http://online.barrons.com/article/SB121702597332186163.html?mod=googlenews\\_barrons](http://online.barrons.com/article/SB121702597332186163.html?mod=googlenews_barrons)

---

**87. "Naked short selling" is short selling that violates rules (when you boil it down short selling opens the door for Naked short selling and fails-to-deliver)**

<http://online.wsj.com/article/SB121677075515675179.html>.

---

**88. The Securities and Exchange Commission (SEC) announced rules on July 15th to restrict short-selling of 19 financial stocks.**

[http://www.economist.com/finance/displaystory.cfm?story\\_id=11921720](http://www.economist.com/finance/displaystory.cfm?story_id=11921720).

**89. As other regulators hustle to address the economy, the Securities and Exchange Commission needs to better enforce laws already on its books**

<http://articles.latimes.com/2008/jul/17/opinion/ed-sec17>

**90. By allowing investors to sell stocks they don't own but have only borrowed, short selling allows negative views to immediately be reflected in prices and creates a more efficient market July 18, 2008**

[http://online.wsj.com/article/SB121633656801263789.html?mod=opinion\\_main\\_review\\_and\\_outlooks](http://online.wsj.com/article/SB121633656801263789.html?mod=opinion_main_review_and_outlooks).

---

## 91. 'Naked Shorting': Far More Dangerous Than Sexy

Naked shorting is a particularly **kind of short-selling**. It is so potentially harmful to shareholders that the Securities and Exchange Commission yesterday put in new protections to try to prevent naked shorting of mortgage giants [Fannie Mae](#) and [Freddie Mac](#) and major investment banks.

July 16, 2008

<http://www.washingtonpost.com/wp-dyn/content/article/2008/07/15/AR2008071502829.html>

## 92. Committee to Hold Hearings on Collapse of Lehman Brothers and AIG

Lax oversight and reckless investments on Wall Street are causing massive disruption throughout our Economy," said Chairman Waxman October 03, 2008

<http://oversight.house.gov/story.asp?ID=2176>

## 93.. Fuld blames 'crisis of confidence' October 6, 2008

Securities and Exchange Commission [moved to ban](#) the practice, which has been blamed for some of recent wild market swings. The SEC also recently issued a temporary ban on short selling all financial stocks

[http://money.cnn.com/2008/10/06/news/companies/lehman\\_hearing/?postversion=2008100612](http://money.cnn.com/2008/10/06/news/companies/lehman_hearing/?postversion=2008100612).

## 94... Dick Fuld's Vendetta Against Short-Sellers—and Goldman Sachs Was Lehman Brothers Holdings CEO Dick Fuld driven to distraction by short-sellers as the company's stock price plunged this year.

October 7, 2008

<http://blogs.wsj.com/deals/2008/10/07/dick-fulds-vendetta-against-short-sellers-and-goldman-sachs/>

---

**95.. This is a crisis for the entire global economy.** Naked short selling, which I believe contributed to both the collapse of Bear Stearns and Lehman Brothers. Short selling by itself can be employed as a legitimate hedge against risk. Naked short selling, on the other hand, is an invitation to market manipulation.

Naked short selling, followed by false rumors, dealt a critical, if not fatal blow to Bear Stearns. Many knowledgeable participants in our financial markets are convinced that naked short sellers spread rumors and false information regarding the liquidity of Bear Stearns, or any other company.

And simultaneously pulled business or encouraged others to pull business from Bear Stearns, creating an atmosphere of fear which then led to a self-fulfilling prophecy of a run on the bank. The naked shorts and rumor mongers succeeded in bringing down Bear Stearns. And I believe that unsubstantiated rumors in the marketplace caused significant harm to Lehman Brothers. In our case, false rumors were so rampant for so long that major institutions issued public statements denying the rumors

[http://news.hereisthecity.com/news/business\\_news/8317.cntns](http://news.hereisthecity.com/news/business_news/8317.cntns)

**96... SEC and others have also defended the practice in limited form as beneficial for market liquidity.**

Its critics have contended that the practice is susceptible to abuse, can be damaging to targeted companies struggling to raise capital, and has led to numerous bankruptcies. Other commentators contend that naked shorting is more of a potential than a real problem, and have criticized the SEC for dealing with an issue that is tangential at best.

<http://www.bloomberg.com/apps/news?pid=newsarchive&sid=afpYSjiXF7iE>

**97.. In March 2007, the Securities and Exchange Board of India (SEBI), which disallowed short sales altogether in 2001** as a result of the Ketan Parekh affair, reintroduced short selling under regulations similar to those developed in the United States. In conjunction with this rule change, SEBI outlawed all naked short selling.

<http://www.thehindubusinessline.com/2007/12/24/stories/2007122451310200.htm>

**98... In July 2006, the SEC proposed to amend Regulation SHO, to further reduce failures to deliver securities** <http://www.sec.gov/rules/proposed/2006/34-54154>.

**99.. Whether the S.E.C. will go far enough to satisfy the many critics of short-sellers is far from certain. S.E.C. May Reinstate Rules for Short-Selling Stocks,**

Representative Barney Frank, left, urged Mary L. Schapiro, right, head of the S.E.C., to reinstate a rule that restricts short-selling. **07-03-2009**

<http://www.nytimes.com/2009/07/03/business/03shorts.html>

---

## Recent developments

US SEC | title=Proposed SEC 17 CFR PART 242 (Release No. 34-54154; File No. S7-12-06) RIN 3235-AJ57 Amendments to Regulation SHO] SEC Chairman Christopher Cox referred to "the serious problem of abusive naked short sales, which can be used as a tool to drive down a company's stock price." and that the SEC is "concerned about the persistent failures to deliver in the market for some securities that may be due to loopholes in Regulation SHO.

And in March 2007, the Securities and Exchange Board of India (SEBI), which disallowed short sales altogether in 2001 as a result of the Ketan Parekh affair, reintroduced short selling under regulations similar to those developed in the United States. In conjunction with this rule change, SEBI outlawed all naked short selling

And then on June 2007, the SEC voted to remove the grandfather provision that allowed fails to deliver that existed before Reg SHO to be exempt from Reg SHO. SEC Chairman Christopher Cox called naked short selling "a fraud that the commission is bound to prevent and to punish." The SEC also said it was considering removing an exemption from the rule for options market makers.

SEC Chairman Christopher Cox in March 2008 gave a speech entitled the "'Naked' Short Selling Anti-Fraud Rule," in which he announced new SEC efforts to combat naked short selling <http://www.sec.gov/news/speech/2008/video0030408cc> short.wmv Video of Christopher Cox *March 2008*

I ask you why In 2007 as they claim to crackdown ,Why do we still have all the problems we have with Short Selling?

Year after year it's the same thing they are cracking down or, new SEC efforts to combat the problem.

Even with the regulation in place, the SEC received hundreds of complaints in 2007 about alleged abuses involving short sales. The SEC estimates about 1% of shares that change hands daily, about \$1 billion, are subject to delivery failures. SEC Commissioners Paul Atkins and Kathleen Casey expressed support for the crackdown.

---

In July 2008, the SEC announced emergency actions to limit the naked short selling of government sponsored enterprises (GSEs), such as Fannie Mae and Freddie Mac in an effort to limit market volatility of financial stocks <http://www.bloomberg.com/apps/news?pid=20601087>

*SEC to Limit Short Sales of Fannie, Freddie*, But even with respect to those stocks the SEC soon thereafter announced there would be an exception with regard to market makers <http://www.wallstreetandtech.com/advancedtrading/showArticle.jhtml?articleID=209101993&cid>

*News SEC Short Sale Rule Could Create a Bubble in Financial Stocks*] SEC Chairman Cox noted that the emergency order was "not a response to unbridled naked short selling in financial issues", saying that "that has not occurred". <http://www.sec.gov/news/speech/2008/spch071808cc.htm>

Analysts warned of the potential for the creation of price bubbles.

September 17th, 2008, the SEC issued new, more extensive rules against naked shorting, making "it crystal clear that the SEC has zero tolerance for abusive naked short selling". Among the new rules is that market makers are no longer given an exception. As a result, options market makers will be treated in the same way as all other market participants, and effectively will be banned from naked short selling <http://www.sec.gov/news/press/2008/2008-204.htm>

SEC Issues New Rules to Protect Investors Against Naked Short Selling Abuses] Sept. 17, 2008]

Rather than fixing any of the real problems with the agency and its mission, Cox and his fellow commissioners waved a newspaper and swatted the imaginary fly of naked short-selling. It made a big noise, but there's no dead bug. <http://online.barrons.com/article/SB121702597332186163.html>

External links and further reading.

Short Selling FAQ: Securities and Exchange Commission.

Naked Short Selling FAQ: Depository Trust and Clearing Corp.

AMEX's daily and monthly Regulation SHO threshold security list.

NYSE's Regulation SHO threshold security list.

NASDAQ's Regulation SHO threshold security list.

SEC stock delivery failures charted.

George G Fitzpatrick 09/2009

---

