

Melinda Katz
New York City Councilwoman
29th District
104-01 Metropolitan Avenue
Forest Hills, NY 11375

The Honorable Mary L. Shapiro
Chairwoman, U.S. Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549

Re. Regulation SHO

Dear Chairwoman Shapiro:

As a current New York City Councilwoman and as a Democratic candidate for New York City Comptroller, I have been witnessing, discussing and addressing the fallout of the financial crisis every day along with the hardworking men and women who have been hit the hardest. As such, I feel it is important for me to speak out on financial issues that affect our economy and our citizenry, and so I am submitting the following written testimony, from a New Yorker's perspective, on the potential restoration of the uptick rule to prevent manipulative short-selling that distorts financial markets.

While financial rules in Washington continue to be weighed and considered, repealed and reinstated, argued and debated, New Yorkers continue to struggle to keep their jobs and stay in their homes. Parents in every borough worry about their children's education. Families of all types worry about their savings and their future. Lawmakers must address the crisis in the public financial markets the same way New York families consistently address crises in their private lives: with common sense and accountability. In applying the same criteria to reinstating the uptick rule, we can prevent the brazen act of selling short for the sole purpose of driving down a stock price to a level where shareholders panic and sell off their portfolios.

- COMMON SENSE: Since its establishment in 1938, the uptick rule prohibited speculative short-sellers from manipulating prices by repeatedly offering to sell borrowed securities, thus rapidly driving down the price to make a quick profit. Unfortunately, the rule was misguidedly repealed in 2007 based on suspect evidence garnered from an ideologically narrow study conducted during an extraordinary bull market. The present condition of our economy is evidence enough to refute that study and its findings. No more studies are required. The rationale of the uptick rule is plain—a security can only be sold short at a price above that of the last sale; otherwise, short selling lends itself too easily to market manipulation. Common sense dictates that this rule be reinstated immediately, before more honest and hard-earned savings are lost through so-called “bear raids,” when a manipulative trader attempts to artificially force down the price of a security at the expense of ordinary investors.

- ACCOUNTABILITY: Bear raids can also occur through “naked short selling,” or when sellers neglect to borrow the securities they promise to deliver when selling it, because they intend to quickly buy back the security after the price falls. Sellers must be held accountable for such false promises and their subsequent failures to deliver should be diligently pursued and severely punished.

The necessary fixes for our broken financial system require strong and united leadership based on common sense and accountability. We need this kind of leadership from Washington in order to secure a return to prosperity and a sound financial system.

New York bears a special responsibility for Wall Street. We also bear disproportionate consequences for its excess. Not only does our local economy suffer disproportionately when profits crater, but our City's pension system falls in tandem. As a candidate for City Comptroller, therefore, I feel it is my duty to preserve and maintain our local economic engines and protect our pensioners from manipulative behavior that threatens their retirement. Understanding that New Yorkers demand a Comptroller who will protect their savings following an era of deception and greed, I feel compelled to speak out for just these reasons.

As a city, however, we cannot do it alone without strong partnership from Washington. Just as we have found strength in national leadership to recover from previous periods of hardship, we need similar directional guidance today to help protect New Yorkers' from market deceit. Just as we in New York worked together to restore faith in our city in its darkest hours, we must all work together to restore faith in our financial markets. Restoration of the uptick rule is a step in that direction.

No city in the history of our great nation has been the subject of more virulent forces—financial and otherwise—than New York, and no citizenry has shown more resolve and resilience in the face of adversity. New York will emerge from the financial crisis stronger and wiser by following the best time-tested principles of leadership: namely, common sense and accountability. I urge you to follow these principles and reinstate the uptick rule.

Sincerely,

A handwritten signature in black ink, appearing to read "Melinda Katz", with a stylized flourish at the end.

Melinda Katz
New York City Councilwoman