The rhetorical question is: does naked shorting and 3X ETF's actually represent the future value of a stock? OR are these investment tools being used to manipulate the short-term value of a trade?

Owning an equity stake is a financial investment in the company's future ability to produce wealth.

Shorting a stock is actually an important tool in regulating bullish exuberance without basis. I can see the need for it but the shares MUST be borrowed to short. A trade is an equitable meeting place of a buyer sell. Naked shorting contributed to both the collapse of Bear Stearns and Lehman Brothers. Without intervention would have collapsed AIG, Citi, Fannie, the list goes on.

I suggest that the players in the game were only playing within the rules. Just like kids on an elementary playground, imagine if you said it was ok to kick each other. Then watch the chaos that ensues when all the kids go and kick on one kid all at the same time. A simple rule change that distorted the playground. Fix the rules of the game and the behavior will change.

The problem we are facing did not start last year. As you know the financial problem probably started with changing the laws under the Clinton administration and the supposedly archaic depression era laws were repealed. (1). This allowed the market to become overleveraged. Then the laws on shorting stocks were changed.

The next piece of the puzzle is the elimination of the Uptick Rule on July 6, 2007. This was during a bull market when the apparent issues of overleveraging would not be seen. (2) When the bear market began this overleveraging along with the uptick rule elimination allowed the market to short stocks on a continual basis.

The last straw that broke the camel’s back is when Fannie Mae and Freddie Mac began to show overleveraging.(3) Then the real estate market began to realize that many of the loans that were given should not have been made and Fannie and Freddie held a lot of potentially bad paper which was leveraged because it was government guaranteed. The market began shorting the financial stocks, which without the Uptick Rule, the market began to devour the overvalued financial stocks. This is the realization of the slide as all of the other overleveraged stocks began to topple each other like dominoes because of excessive cross-collateralization.

Will a change in the Uptick Rule be the cure for all that ails the market? No, but some evaluation of high leverage in a bearish market along with naked shorting and 3X ETF’s should be done with great consideration. The shorts were correct that there may have been some over valuation, but did the short tools truly represent the future ability of wealth generation by companies standing for decades? Were the leverage laws preceding the rule change the foundation for the market decline? Undoubtedly, the rule changes created a new playground of risk for the companies. We cannot change the financial landscape in retrospect, but we can make forward looking policy that help prevent chaos.

Please consider some rule changes to naked shorting, leveraging, and the uptick rule.

(1) In 1999 Clinton signed into law the Gramm-Leach-Bliley Act. This repealed the last vestiges of an important Depression-era law, the Glass-Steagall Act (1933), which prohibited banking, brokerage, and insurance companies from merging together, thus compartmentalized the financial industry and protected it from future collapses.

Equally significant in 2000, President Clinton signed the Commodity Futures Modernization Act, which repealed 20-year-old agreements between the Security and Exchange Commission and the Commodity Futures Trading Commission, so that financial institutions could sell credit derivatives such as the now notorious "credit default swaps” without any oversight and with no regulation.

(2) On the March 20, 2008 episode of Mad Money, Jim Cramer launched his campaign to reinstate the uptick rule. Citing the wild swings of the market since its elimination, Cramer said that the SEC eliminated the rule during a bull market, when liquidity was not a problem. Cramer believes that, without the uptick rule in place, short sellers are devaluing perfectly solid stocks. On the Friday 22, 2008 episode, Jim Cramer further underscored the true scale of the absence of the uptick rule, exclaiming that Obama must "reinstate [the uptick rule], a rule put in place to prevent a repeat of the great crash."

On July 3, 2008 Wachtell, Lipton, Rosen & Katz, an adviser on mergers and acquisitions, said short-selling was at record levels and asked the SEC to take urgent action and reinstate the 70-year-old uptick rule. On November 20, 2008, they renewed their call stating "Decisive action cannot await ... a new S.E.C. Chairman. ... There is no tomorrow. The failure to reinstate the Uptick Rule is not acceptable."

On July 16, 2008, Congressman Gary Ackerman, Congresswoman Carolyn Maloney and Congressman Mike Capuano introduced H.R. 6517, "A bill to require the Securities and Exchange Commission to reinstate the uptick rule on short sales of securities."

On September 18, 2008, Republican presidential candidate and Senator John McCain said that the SEC allowed short-selling to turn "our markets into a casino." Sen. McCain criticized the SEC and its Chairman for eliminating the uptick rule.

(3) On July 11, 2008, the New York Times reported that U.S. government officials were considering a plan for the U.S. government to take over Fannie Mae and/or Freddie Mac should their financial situations worsen due to the U.S. housing crisis. The government officials also stated that the government had also considered calling for explicit government guarantee through legislation of $5 trillion on debt owned or guaranteed by the two companies.

Shares in U.S. mortgage finance firms Fannie Mae and Freddie Mac plunged on Friday, July 11, 2008, and market speculation mounted that the government was set to take them over to resolve their funding problems.

Shares continued to plummet as investors became unsure about the adequacy of the capital held by FNMA. U.S. Treasury Secretary Henry M. Paulson as well as the White House went on the air to defend the financial soundness of Fannie Mae.

Fannie Mae and smaller Freddie Mac own or guarantee almost half of all home loans in the United States. They face billions of dollars in potential losses, and may need to raise additional, potentially substantial, amounts of new capital as the current downturn in the U.S. housing market continues.