

Ms Mary L Schepers  
Securities and Exchange Commission

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CHAIRMAN'S  
CORRESPONDENCE UNIT

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RE: SHORT SALES

I write in reference to the current deliberations about short selling. Hearings and testimony have provided you with important input but I wish to add my comments since they come from a practitioner in the investment process and many decades of participation in the institutional investment business, with no axe to grind. My entry to the investment world was back in 1959, after completing graduate school. That's five decades of involvement and observation. I functioned as a research analyst, assistant portfolio manager, and then many years in institutional sales with prominent investment banking firms. For the past four years I have been a Senior Research Analyst with Satevit Capital Management, a mutual fund with a very successful nine year record investing in micro cap stocks.

It is my opinion that regulations regarding short sales have been allowed lose effectiveness, create issues of fairness, and have had a deleterious impact on the integrity of the marketplace.

There has been an enormous amount of change in the last decade in terms of how equity capital is managed. Growth in size of assets, enormous proliferation of money management firms, complexity

of investment vehicles, styles of investing, and a resultant explosion of technology in reaching investment decisions, hedging of such, and a constantly changing and evolving of the execution of trades. Mutual funds have proliferated and hedge funds have grown enormously. Investment banks have become very active investors for their own accounts. The use of computerized Trading Techniques have also added to the increasingly competitive marketplace which has come to fruition.

Volatility has been increasing as a trend for a number of years.

I cite all of this as a prelude to a plea for the Commission to do all in its power to bring back a full measure of integrity and fairness to the execution of trading orders. Having watched with dismay as patterns of stock price movements raise considerable question as to what lies beneath I raise my voice, as a participant in the market who would like to think that we all participate on a level playing field basis.

First and foremost I'll touch on naked short sales. This has received some attention but needs more and possibly very vigorous application of existing rules. When a short sale is to be executed, it is my understanding that the broker executing the order must first locate a supply of stock which can be borrowed in order to complete the trade. The operative word in that sentence is locate! The rules, I believe, require that the shares be actually committed for and borrowed. Locating, but not borrowing is a violation, leads to abuses and

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results in pressures on stock prices beyond what normally would have transpired were all the existing rules followed appropriately. Investment brokers to whom the fails to deliver all too often were lax in demanding prompt delivery. In my opinion there was a mutualality of interests creating a pattern of failure to observe rules and an alarming lack of policing follow up by regulatory authorities. I implore you to create exacting standards of compliance that explicitly require any stock to be shorted to be fully secured as borrowed before execution. That will be a first but large step in the corrective process. Attention must be paid to any approach which subverts the intended benefit. Market makers etc. which if allowed to spread undermine the process.

Next, I wish to state, that it is sadly evident that removing the uptick rule has led to unintended but probably predictable issues which have had a negative impact on areas of securities trading. I refer to the examples of persistent weakness in stock prices subject to successive and persistent downward pressure on prices. Exacerbated, in many cases by naked short selling. Does anyone exist who does not think that there was a massive attack by short sellers, possibly acting in concert, against the financial and bank stocks in the past year. Yes, the regulatory authorities suspended short selling in a very limited number of stocks. Welcome indeed. Does that not illustrate the beginnings of a problem which needs permanent correction.

You receive broad and impressive input from a cross section of the investment community pressing for removal or relaxing of the rules

about short selling. I urge you to consider from whence those come. I submit that most may come from those who would benefit from the lack of appropriate restrictions. Far too often the Commission does not have access to the opinions of those "average Joe's" about issues which you deliberate and that affect all of us in the markets and not a sub sector of participants with an above average interest in a particular outcome. Aggressive investors can push for results, sometimes out of proportion.

I ask, again in strong terms, for a restoration of the uptick rule across the board affecting all stocks. Complexity of trading causes a consideration of the optimal amount of uptick. I perceive that to be somewhere between \$0.01 and \$0.03.

Beyond that I hasten to add that the Exchange proponents and others who want no uptick rule but suggest an intervention after a 10% decline, that's sadly lacking. It restricts any leveling of the field until after a major disruption. I argue for an up-front across the board rule applied to any short sale. That's far closer to my impression of market integrity, which I think is the most important aspect of this whole deliberation.

Integrity is an ever present ongoing objective from the first to the last trade, in contrast to addressing the situation after a 10% disruption.

There are many academics and practitioners who cite voluminous commentary about how

short sales add a large element to the price discovery element in markets. I have no quarrel with all that. In our investing activities we do not utilize short sales but every trade we do is based on the hope that fair pricing underlies them.

This whole short sale issue is an unsettling and festering aspect of stock order execution. The work of the SEC is extremely important and we, the ordinary participants in the investment process, beg for your attention and your conviction to right some wrongs. There are a thousand but the Short Sale rules are here and now front and center.

As an aside, I have never written a letter previously to any US Government, State, or exchange.

Sincerely  
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