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March 30, 2009

The Honorable Mary Schapiro
Chairman
U.S. Securities and Exchange Commission
100 F Street NE
Washington, DC 20549

Dear Chairman Schapiro:

I am a small SEC registered money manager who has been in the industry since 1979. I support the move to reinstate the uptick rule. Recently, representatives of the exchanges have proposed a modified scheme for an uptick rule that they think may prove more efficient in the age of decimilization. I strongly disagree with the part of their proposal that would implement the "Modified Uptick Rule" only when a circuit breaker level in a security has been breached. They are suggesting something like a 10% move in a security. The very idea that anything close to 10% volatility in an individual security on a daily basis should be accepted as normal ought to be strongly discouraged. What's good for the exchanges is not automatically what is good for the investing public and institutions.

Since the move to decimilization the exchange have adapted by chasing volumes from fast money which adds to volatility in the name of liquidity while sacrificing real investor confidence. Why consider any of these artificial schemes when the SEC and exchanges could make one change that addresses all of these issues? Eliminate decimilization and its one cent spreads.

One could easily reinstate the tried and true original uptick rule on short sales with a larger spread, as the problem of false positives would be eliminated. Plus, when there was a spread between the bid and ask, executing brokers were financially motivated to try and maintain price stability when working an order. Often to secure that order they would commit to doing some portion of it at or close to the bid or offer depending on the order. Why? To make a profit by trying to buy or sell it on a bid or offer or at least in the middle somewhere and it worked well for everyone. To capture a portion of the spread, both executing brokers and traders on the floor would try and do what they could to maintain price while executing. But with a penny, there is no middle anymore. Brokerage firms' and floor traders' capital is not committed to trading when stocks can move a penny against them and they're losing money. This all occurred naturally with no rebates or schemes.

I don't expect us to go back to the 1/8. That's probably history, but even a five cent spread would create a dramatic incentive for PEOPLE, not machines, to take the other side of a trade without having the individual security move 10% + intraday to do it. That kind of move used to be an aberration. Since decimilization, up and down, it's becoming normal for large and small cap stocks.

If the SEC and exchanges surveyed the buy side, plain vanilla, intermediate to long term investors who buy individual securities would gladly pay a slightly higher transaction cost for a return to more normalized volatility and better overall execution prices. Keep it like this if you want to drive long term stock picking investment styles out of the marketplace and turn the stock market over to the "fast money", short term strategies that benefit from volatility and high turnover. Or, be unafraid to say we messed up and did not realize the unintended consequences of eliminating the spread in stocks in an attempt to lower the cost of transacting.

Brokerage firms could make money again returning to their roots by committing capital to trading for the buy side and individual investors again. If a reasonable spread made trading profitable again, brokerage firms would be less inclined to keep delving into exotic, high risk strategies to make money (recently disastrous).

Instead of schemes, subject to politics, short term considerations and possible manipulation, a small spread uses natural human behavior to accomplish a greater good for all investors. Sometimes, you have to step back to move forward. Many well intended changes, like decimilization, algorithmic trading and even Reg FD and Sarbannes-Oxley have done serious long term harm to exchanges, Wall Street, publicly traded companies and the investment public at large. The fix is simple, go back to what worked well before.

Sincerely,

Mark C. Johnson

cc: The Hon. Kathleen L. Casey, Commissioner
The Hon. Elisse B. Walter, Commissioner
The Hon. Luis A. Aguilar, Commissioner
The Hon. Troy A. Paredes, Commissioner
Dr. Erik R. Sirri, Director, Division of Trading and Markets