June 4, 2009

Mrs. Elizabeth Murphy
Secretary, Securities and Exchange Commission
100 F Street, NE
Washington DC, 20549-1090

Ref. File No: S7-08-09

Dear Mrs. Murphy,

As both a professional investor who interacts with the equity markets on a day to day basis as well as a personal investor I firmly believe that the reinstatement of the uptick rule would be a disadvantage to both professionals and individuals a like. Many have come to blame short sellers as the culprits for the massive declines experienced in equity markets during the latter part of 2008. While I applaud Jim Cramer's efforts to start a grass roots initiative to create a better and safer marketplace for individual investors I believe that his argument is flawed and many of his followers are simply frustrated about the losses they incurred and looking to blame anyone who was able to profit off of the downturn. While it is possible that the uptick rule could create some additional volatility on an intra-day basis during these once in a century market panics, I believe that Cramer neglects to mention the benefits the abolishment of the uptick rule provides in normal market conditions that are invaluable to personal investors. By abolishing the uptick rule professional traders have been able to trade much more volume thus making equity prices more efficient, while providing more liquidity and tightening spreads, all of which do not produce a very obvious or glamorous benefit to the individual investor but are very significant improvements to the equity market that are a great benefit to personal investors over the long run.

Certainly the events we have seen over the past year are very extreme and rare but I think it is important to note that the movement of equity markets during this crisis has been a reaction to events happening inside our banking system, credit markets, and overall economy. When the crisis began to unfold we saw the extreme price drops that we did simply because the solvency of many of financial institutions were in question and that uncertainty caused panicked selling throughout the broader market as we saw more money pulled out of equities than ever before. CEOs, coincidentally whose jobs it is to maximize shareholders value, were quick to blame short sellers and market conditions to their rapidly declining stock prices despite the fact that the ultimate culprit proved to be the adverse effect their balance sheets and exposure to the banking system as a whole would have on their future earnings and valuations. The panic to sell was so great that even during the period when short selling in financials was banned they sank to some of their lowest levels of all time.

The moral of the story is that during extreme market times such as those experienced at the end of last year there will be panic selling whether shorting is allowed or not because

there is too much uncertainty about the future of equities. While it can be very frustrating and distressful to individual investors, the panicked selling caused by such uncertainty is human nature and no rule or regulation will be able change that. The various studies by the SEC preceding the abolishment of the uptick rule showed that the rule proved to be ineffective particularly after the decimalization of equity markets. There is also no evidence that it would have any significant effect on future market conditions similar to those in late 2008 if it were reinstated. The only certainties in the equation is that reviving the uptick rule will decrease market efficiency, widen spreads, and decrease liquidity, all of which will be a disadvantage to smaller individual investors during normal market conditions.

Many have stated that we didn't experience market conditions as extreme as these until the uptick rule had been abolished. Well, with that being said, we hadn't experienced the largest economic downturn since the great depression either.

Sincerely,
James Brink