

Mary L. Schapiro, Esq.
Chairman Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549

May 12, 2009
VIA EMAIL
Re: File No. S7-08-09

Chairman Schapiro:

I strongly oppose reinstating the up-tick rule or any additional restrictions on short selling.

Let me see if I have this right.

As a people, we have built a standard agreement for individuals to participate in the equity ownership of others ideas. So if one has an innovation, that may be a profitable business and needed financing, we have come up with "stock" as a record of partnership. One may partake in an equity stake and possible profits in the future, if one gives up an agreed amount of his current funds. (He has a bird in hand and is looking for two in the bush). Hey, seems quite fair.

Now for the birth of derivatives: a word for "derived from" but not the same. We as a people agreed to build a market place to facilitate the equity holders desire to buy and sell shares of the company from others who are willing to take the risk of failure, for possible future returns. They are buying from speculators not the innovator (whose motivation and drive often leave shortly after the handsome windfall of the public sale).

Remember the financiers are selling it. They are not buying it. We must be allowed the same free flowing ability to short stock that the (casino) investment banks' market-makers have. The public doesn't even know that market-makers can short at will. It's only fair that all public market participants have the same ability to short stocks. If we allow the up-tick rule to be reinstated then we will be slanting the field more to the market makers who control the short game and stock price. Let everyone compete equally, no up-tick rule.

Now we have the stock market, it is its own business that as you know from current events, routinely wipes out the sustenance of many Americans. And often causes world wide despair. We accept this, just like we accept 40,000 Americans dying each year in automobile accidents. This is probably acceptable to us for we are blinded by the persuasion of the automakers who don't mind, since it takes over million accidents a year to kill 40,000 people. That means a few hundred thousand new cars every year are needed as well as billions of dollars in parts.

(Do the math) The insurance companies don't mind either they just adjust the numbers by hiking the premiums of the survivors by 2 or 3 fold.

The stock market, in its current form is far from its roots at the buttonwood tree. If you watch the intensity of a 65 year old playing the slots in Vegas and the individual trader/investor watching his e-trade account you won't be able to tell the difference. Pushing buttons with the hope of profits. The difference is the old lady knows the odds are against her but she is hoping and praying that she gets "lucky". If she would be allowed to bet against herself winning (**shorting** the slots outcome) she would most likely leave winning, and the end of slot machines would soon follow.

As a people we allow for any American who would like to roam in the desert of foolishness. Americans have the freedom, to feel entertained by the thrill of winning a game of chance. And we allow for the others (casino owners) to profit from their silliness. In our stock market we Americans are easily persuaded by our exposure to the stock market through every type of media available. Once someone says economy, the stock market is our lifeline indicator. The "Dow", is often heard and understood by almost every American is "how's the market". All the serious professionals know, and as can be understood by the recent removal of GM and AIG from the Dow and with the injection of the fresh blood of CISCO and THE TRAVELERS, the Dow, is really the "new Dow"! This average of stocks, representing the health of our economy has been injected with illegal manipulating steroids for decades. If you left all the original Dow stock in the Dow the Dow would be the average of all those stocks that went to zero and the one or two that were left. The American public should and must have the right to sell short stocks as easily as it has the right to buy stocks. Stocks must be completely transparent. The likelihood for a company to go bankrupt and its stock to go zero in the future is more likely then the stock will be handed down to your grandchildren. Some American talk about the stocks they inherited. No one can talk about the stocks that went to zero that they didn't inherit because it wasn't there, can't talk about transferring a worthless bankrupt company. And that probably happens ten times more often. Stock became worthless, done!

Americans must have the right to short stocks that often have been brought to the public for easy sale to unsuspecting, unsophisticated American worker. Remember the financiers are selling it to you. They are not buying it from you. We must be allowed the same free flowing ability to short stock that the (casino) investment banks' market-makers have.

The public doesn't even know that market-makers can short at will. It's only fair that all public market participants have the same ability to short stocks. If we allow the up-tick rule to be reinstated then we will be slanting the field more to the market makers who control the short game and stock price. Let everyone compete equally, no up-tick rule.

It seems silly that investment banks, brokerage firms, hedge funds, can pump up stock prices to ridiculous levels during the day and keep them lofty artificially by not allowing for the public to spot the manipulation and promptly address the fluff with unhampered short selling by anyone. This will keep the crooks of the market in continuous check.

Please realize it's never the low prices of equities or homes that causes euphoric decision making, better known as "irrational exuberance". It is the inability to keep in check the irrational high prices that cause most economic catastrophes. As evident in this current housing BUST.

Market professionals live off of the irrational decisions of the unsophisticated working American. The guy who seeks the thrill as well as the even, transparent playing field to participate in the game of knowledge, skill, smarts and speed, known as the STOCK MARKET. We all want higher prices and values for our homes and stocks. Our government should not allow us to send in buy-side only investors that will artificially drive prices higher causing the eventual collapse after true real value is again discovered. If anything shorting reveals true value.

In a market of intelligent decision making, the thought of a rule that limits the participant to sell only if there is a previous up-tick (to prevent manipulative and dangerous devaluation of assets) is just as silly as a rule that limits the participant to buy only if there is a previous down-tick (to prevent manipulative and dangerous over-valuation of assets).

The rule makers must come up with a plan for all market participants to be able to short equally and have access to stocks to borrow. As well as dynamic real time public accessibility to current amounts of stock that has been shorted. This will bring us closer to fair and reliable markets.

Abe king
NASD/FINRA registered, since 1985.