Monday, June 15, 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,

This letter is regarding the purposed reinstatement of any type of uptick or bid test rule for shorting equities. Let me start by saying I am vehemently against any reinstatement of an uptick rule. There are many reasons why I believe this and I will touch on some of them in this letter.

There was an extensive study done by the SEC from 1999 through 2006 on the effects of the uptick or bid test rule when short selling on the equity markets. The result of this lengthy and comprehensive study was the abolishment of any uptick or bid test rule. This study had many different stages and many open comment periods and discussions to come to its conclusion. Now the SEC is proposing to make a quick rash decision and implement some type of new uptick rule just because of a small time period in the markets when things were very volatile and the markets suffered large declines and blame short selling for it all. Markets go up and markets go down, that is the nature of the beast. Implementing a new uptick rule as part of a plan to give investors more confidence in the market, is the wrong idea. If short selling was the cause of the market decline then why during the three weeks in 2008 when there was a ban on any short selling in financial stocks, were those financial stocks down about 30% during that time period? There were more sellers than buyers and a lot of uncertainty in the economy, which leads to more volatility. It was actual long position sellers that drove down these stocks, not the short sellers. Also, if short sellers were the cause of the market declines and the people who did the short selling supposedly benefitted from it, then why were all the hedge funds down for the year in 2008? Hedge funds are the ones that can short (as opposed to mutual funds), and if they aren't making money shorting, who is?

Making it more difficult to short stocks will definitely decrease daily volumes and liquidity in the stock market. This will in turn increase spreads in stocks and decrease transparency in the markets attempt to value where a stock should be. There are many valid investing strategies that use short selling, such as risk arbitrage or pair trading that this will have a negative effect on. Short selling can be looked at as a "checks and balances" for valuations of a company. If an investor believes that a stock is intrinsically worth less than it is trading at, why should the investor have limitations as to when he can open a short position in a stock? When an investor believes a stock is undervalued and he/she wants to buy the stock, there are no limitations put on that investor as to when they can purchase a stock. By allowing short sellers to enter a short position without any uptick rule will allow the markets to better find the true value of a stock and company.

When the old uptick and bid test rules were in place, market makers had a large advantage over the average investor. This was because market makers were not limited to only shorting a stock on an uptick, but all other investors had to wait for an uptick to short a stock. The SEC always talks about leveling the playing field between all market participants, and reinstating an uptick rule will obviously not level the playing field and will give select market participants an advantage over others.

In conclusion, for all the reasons mentioned above, I believe there should be NO reinstatement of any type of uptick or bid test rule for short selling stocks.

Sincerely,
Tal Sharon