

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

June 4, 2009

Ref. File No: S7-08-09

Dear Mrs. Murphy,

I am writing in opposition to the reinstatement of the up-tick rule in any form. With the shift to electronic trading and the decimalization of quotations, both volume and liquidity in the market have exponentially increased. This in turn attracts more investors who are comforted by a more fluid market.

Unfortunately, I believe re-imposing the up-tick rule upon market participants will be a deterrent towards further investment. An up-tick rule will be a nuisance to those who wish to properly hedge their positions by reducing their risks on the long side through a properly hedged pair trade on the short side. The reduced volume will undoubtedly lead to wider spreads on quotations thereby reducing overall liquidity on the market.

Furthermore, to criticize short-sellers as catalysts for the market crash in the fall of 2008 is not only false but is also reckless. Those investors who strictly are "long-only" are grossly misunderstanding the essence of proper risk-reward. Not only is there nothing unethical or manipulative about short selling, but it is in fact a wise decision in order to curb your losses and reduce excessive risk in one's portfolio when weighted to the long side. To paint short-sellers as scapegoats for the economic downturn is misleading to the investing public who will overlook the necessity to properly hedge ones long positions through the act of short-selling.

I believe it is also necessary to illustrate the need for congruent rules in the marketplace. Investors who wish to minimize their exposure in the futures market need not be concerned with an up-tick rule. What is to say that this rule will not be extended to other markets if it is in fact reinstated on the equity markets? While the anger expressed by the investing public about the demise of their investment portfolios is understandable, imposing an up-tick rule will not replenish anyone's wealth. I am of the opinion that it will only increase overall risk exposure among investors in the event of another market downturn.

I urge you to consider the full ramifications which will arise as a result of the up-tick rule being reinstated in our modern market. Thank you for your time and consideration.

Sincerely,

Elik Topolosky