June 3, 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,

I strongly oppose the reinstatement of the uptick rule. There are several important reasons for objecting to this proposal.

1. **Liquidity –** Placing restrictions on short-selling such as the uptick rule would result in a decrease in market participation, thus resulting in decreased volume and liquidity. Moreover, not only will the sell-side of a market for a stock be decreased but the buy side resulting from the covering of shorts would also be diminished.

2. **Leveraged Exchange-Traded Funds –** With the advent of leveraged exchange traded funds (ETFs), it is clear that simply shorting a stock is not the only way that an investor can bet on a drop in the price of a stock. Leveraged ETFs track the daily performance of an underlying group of stocks and move 2 or 3 times the amount that the underlying index does. These ETFs are not subject to any possible uptick rule and thus would allow short-sellers to take advantage of falling stock prices. More importantly, these ETFs must rebalance their portfolio using derivatives in order to double or triple the daily performance of the underlying index. So in effect if the market goes up the long ETFs must buy and if the market goes down the short ETFs must sell.

3. **Short-Selling Ban on Financials in Fall 2008 –** This ban provided an excellent illustration of the effects of a possible uptick rule. Short-selling can provide very valuable information on a stock and can bring to surface some very important issues on a particular company. If you take a look at AIG, this stock dropped from $17 on September 11, 2008 to $2 on September 16, 2008. This was an unprecedented loss of equity value. However, there was a clear statement from the investment community that something was wrong with the company. Following the ban on short-selling in financials, AIG bounced to as high as $5.70 in a matter of days! This was a 285% increase in the value of this stock – simply because short-selling was prohibited. The fundamentals of AIG were unchanged. In the ensuing months AIG's stock deteriorated back down to under $1, as the investment community realized that the underlying fundamentals were in trouble **– in effect, asserting the valuation that the short-sellers made in early September** . This was an excellent example of the flaws in an uptick rule because the investment community's assessment of the value of this company was artificially inflated due to restrictions on short-selling. Obviously, the ban on

short-selling is much more sever than an uptick-rule, however the price of the stock would still be artificially inflated because of the restrictions placed on short-selling.

4. **Decimalization vs. Fractions –** Comparing the uptick rule to years in the past is like comparing apples to oranges. In the past, stocks were priced in fractions, rather than decimals. The smallest increments were mostly 1/8 or 1/16. This represents a **minimum** spread on a stock to be 6-12 cents. Thus, the ability to grossly decrease the value of a company through short-selling was much easier when fractions were used. Currently, with decimalization, the spreads of stocks can be 1 penny or even 1/10 of a penny in certain cases. This shows a huge difference in the effect that a short sale can have on the price of the stock. As a result, a bid on a stock can have 100 different levels of price for each $1 of stock price. Previously, with fractions (assuming 1/16), there would only be 9 levels of price within each dollar.

5. **Why Uptick and not Downtick? –** The focus seems to be solely on the short-selling side, however if you were to flip this argument to the buy side and all those investors buying stock on margin, why not implement a downtick before buying a stock? Certainly this would cause an uproar because the public much rather prefers a stock to fly up rather than collapse downward. If you use the argument that short-sellers destroy the ability for a company to raise capital, well then those same proponents should argue that the uninhibited margin buying of a stock that flies upward would allow for corporations to unfairly take advantage of its own stock price by issuing stock at inflated prices. This is just an example that the uptick argument was made out of emotion in the investing public, without a rational and detailed look at the pro's and cons of such a rule.

I am hopeful that the SEC will make the right decision. Investing in the US stock market carries an inherent risk which sometimes can be painful for many, and rewarding for others. However, the efficient valuation of public companies and the added liquidity that short-selling offers is too valuable to put at risk.

Sincerely,

Isaak Volodarsky