

June 08, 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 am contacting you with regards to the proposed reinstatement of the “up-tick” rule. I believe it is important that I share my opinion with you, because I could not disagree more with the notion that bringing the up-tick rule back will somehow create a more efficient and “fair” market. It is perplexing to me that the SEC would even contemplate bringing this rule back having removed it as early as 2007 when *Rule 201 Regulation SHO* was put into effect. I would love to spend the bulk of this letter examining how the up-tick rule doesn’t really help anyone nor does it make the market any more efficient, however, I believe there are enough economists and professors that have provided data exploring those points. *Rule 201 Regulation SHO* was put into effect for a reason. That reason was because it was actually proven that the up-tick rules, according to the SEC, “modestly reduce liquidity and do not appear necessary to prevent manipulation. In addition, the empirical evidence did not provide strong support for extending a price test to either small or thinly-traded securities not currently subject to a price test” (Securities Exchange Commission).

Having proven that the up-tick rule is not effective the question then becomes, ‘has the market environment vastly changed from the time the rule was removed to now?’ I believe the answer to that question is complicated. However, on the surface I believe that answer is no. Recently, the world markets collapsed. The economic downturn caused the markets to severely react and in turn correct themselves. Having an up-tick rule through this period in our history would not have changed the fact that equities were radically over priced. The up-tick rule would not have protected against the failing of the banks nor would it have protected against the housing market bubble.

For some reason, it seems that the SEC and the media are portraying this rule as our saving grace; a means of “fixing” and protecting against any future collapse. The reality is that the rule is a mere façade that the SEC is actually doing something. I believe the SEC as well as the market would be better served if the amount of energy being put into the reinstatement of the up-tick rule was put into actually protecting investors from manipulative practices.

Sincerely,

Seth Kramer