

June 5, 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,

As one who has actively traded stocks both independently and for small firms since 1999, I respectfully request that the S.E.C. not reinstate the Uptick Rule.

The first problem I have with the Uptick Rule is that it favors the interests of larger Wall Street firms over those of the small investor, in that the restrictions it places on short-selling explicitly do not apply to market makers. Many people who are in favor of the Uptick Rule seem to be unaware of this fact. The Uptick Rule does not apply to market makers, including many of the firms whose reckless decisions helped lead to the financial crisis, but does force the rest of us to endure restrictions on how we invest. The last thing we need to be doing is giving the largest and most influential firms yet another market advantage.

Another problem with the Uptick Rule is that it promotes an inefficient market. Instead of an ideal market where all participants can buy and sell as they see fit, the Uptick Rule restricts certain types of sales, again only those which could be made by individual investors and small firms. This lack of market efficiency can lead to bubbles as rational investors are denied certain opportunities to sell stock in over-hyped companies.

To take just one example, the existence of the Uptick Rule further inflated the internet bubble of the late 1990s, as analysts and promoters bid up stocks while people skeptical of such hype were often denied the chance to sell those stocks. The ensuing media frenzy roped in many unsuspecting novice investors who would ultimately take huge losses. When the tech market inevitably crashed, only the market makers, many of whom helped create the bubble to begin with, were able to take full advantage of the downside by selling those same companies short. Smart investors who had done their homework were forced to sit on the sidelines.

Another mark against reinstating the Uptick Rule is that in today's market it would significantly increase transaction costs. Requiring every brokerage firm's software to determine whether the last tick was up or down in our era of penny and sub-penny increments and disallow certain trades accordingly would cost a fortune. These costs would inevitably be borne by investors in the form of higher commissions.

For these and many other reasons, it would be a serious mistake to reinstate the Uptick Rule. Thank you for your time and consideration.

Sincerely,

David B. Feinstein