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 am writing to you today to express my deep opposition to a matter which has been the subject of much recent debate, the reinstatement of the “uptick rule” in the US equities market. As a professional trader and investor, I am in a unique position to observe the impact of SEC rules and regulations on intraday volatility. My experiences and my research have led me to conclude that limiting the ability to freely short stock has not only failed to historically prevent volatility, and is against the principles of a fair and balanced market, but will also not have significant impact on volatility in the future, due to the increased prominence of leveraged “bear” ETF’s.

First and foremost, I would like to state that after a very thorough investigation, using decades of market data, the SEC’s own commission on the uptick rule decided that there was no correlation between market stability and the existence of the rule. Obviously, the data and timeframe that was used does not include the wild swings and intraday volatility seen in the past year. But it is both erroneous and dangerous to infer that the recent instability is due, even in part, to the absence of limits on short-selling. It is an argument that negates the fact that the rapid decline in financial names, including Bear Stearns and Lehman Bros, stemmed from fundamental problems in their business models. These included enormous amounts of leveraging and risk assumption, and minimal personal responsibility. It is poignant to note that after the temporary ban on short selling was placed into effect, from September 19th to October 9th of 2008, the financials as a sector were down over 30% in the absence of any short selling. An interesting theory is that there may have been *less* drastic decline in equities prices if short selling had been allowed. As fear and insecurity mounted, many investors found themselves willing to hit bids at any price. Short participants often represent a natural buying presence that can *support stock price*, due to the need to cover their initial shorts. The absence of their bids potentially drove the market far lower than necessary.

Additionally, it is my belief that short sellers already have the decks stacked against them, even without additional regulation. If an investor decides to purchase stock, he knows the maximum amount that he can lose, as prices can never go below zero. Thus, if he buys at a $10 share price, the most he can lose is $10. However, a short-seller has no such security, and thus, is forced to be more prudent and diligent in his decisions. He cannot speculate in the same manner as a "long" investor, for if he shorts a stock at $10, he can only make $10. But his loss potential is unlimited, as the stock could go to $50, $100, $1000, etc. In addition, due to limited short-availability in all many non "large-cap" companies, the higher the share-price rises, the less likely it is that other investors, who may find these prices to be out-of-line with fundamentals, will be able to short. In-turn, the initial short seller has very little liquidity to cover his positions if he chooses to exit. Thus, short-selling is inherently a dangerous strategy. Adding the uptick rule into the mix will only serve to drive prices farther away from fundamentals, as short-sellers will become more skittish, and "long" investors will become more speculative, resulting in more bubbles similar to the one seen in the Nasdaq in 1999 and 2000.

Finally, I would like to propose that the return of the uptick rule will do very little to decrease market volatility due to the presence of leveraged "bear" Exchange Traded Funds (ETF's), such as the SKF, FAZ, SRS, and many others. By purchasing shares of the SKF, for example, an investor can bet against a rise in the financials sector without having to short stock. In recent months and years, these funds have seen dramatic increases in volume and volatility. As more and more market participants have turned to these trading vehicles, astute investors have begun to base decisions on the price-action seen in these funds, rather than looking at the fundamental and technical information of individual companies. A limit on short-selling may result in a more pronounced influence for these "bear" ETF's, which will in turn lead to stock prices that continue to diverge from fundamentals.

It is my firm belief that due to the lack of historical data, the fundamental nature of the risk of short-selling, and the increased prominence of bearish leveraged ETF's, the induction of a new up-tick rule will not serve to fairly balance and stabilize the equities market. Rather, it could serve to divert attention from real reasons behind volatility and rapid declines in equities, such as the assumption of maximum risk with minimal penalty. I implore you to consider these reasons before rendering any decision regarding the uptick rule. Thank you for your time and consideration, it is much appreciated.

Sincerely,

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