June 8, 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,

Recent turmoil in the financial markets has brought tremendous speculation about the effect of short selling on market stability. I find any imposition of further restrictions to be contrary to the purpose of an exchange. An exchange is meant to serve as a liquid way for supply and demand to interact in a way which determines the fair value of a company. If excessive selling causes the value of a stock to drop below its value, then investors will buy the stock to compensate and restore stability. Short selling does not affect the fundamental value of a company, and therefore can not be blamed for a firm's insolvency, poor leadership or troubled balance sheet. The two suggested alterations to the short sale rule each are flawed and I will address them separately:

1. The Up-Tick Rule: Preventing short selling by restricting short sales to only after up-ticks or high-bids will not prevent the decline of a stock, nor will it even discourage short sales. Investors will be able to implement various strategies which will circumvent the rule. For example, by buying a 100 share lot from the offer, causing an up-tick and then immediately hitting the bids for 100,000 shares would satisfy the rule and still only have halted short selling for a fraction of a second (given the today's technological advancements). Furthermore, Investors could purchase in the money put options at nearly negligible premiums and thereby hold a negative position in the stock. The difference between short selling and alternative forms of negative positions (e.g. put options or swaps) is that short selling provides greater liquidity and greater opportunity for investors who wish to take a positive position. The up-tick rule would effectively serve as a regulatory impedance, and only serve to complicate an otherwise more efficient marketplace.

2. The Circuit Breaker Rule: By halting a stock given a specific percentage decline, one prevents the opportunity for investors to buy and take advantage of the depressed prices. If a publicly traded company has news which is relevant to its stock performance, it is well within its rights to ask the exchange to halt trading prior to the news release and allow for the news to circulate. If a company declines this option, it should, without warning, be aware that short selling is a possibility upon release of the news. If a stock declines without any relevant news it is based on speculation and therefore will provide liquidity for rational investors seeking to take long positions at lower prices.

The capital markets provide multiple opportunities and means for investors to take negative positions without uncovered short selling and therefore any sort of restrictions will not necessarily provide market stability. If the exposure of a firm's troubles assets results in a decline in their price, then that a problem with the transparency in said firm's financial statements and the disclosure of its officers to shareholders.

Sincerely,
Robert Kang