BARCLAYS
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September 21, 2009

Ms. Elizabeth M. Murphy
Secretary
Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549-1090

RE: File No. S7-08-09—Amendments to Regulation SHO

Dear Ms. Murphy:

Barclays Global Investors, N.A. and its affiliated asset management companies (collectively "BGI")[1] welcome the opportunity to comment on the Commission's latest proposal for an alternative uptick rule that would allow short selling only at an increment above the national best bid. In our letter of June 19, 2009, we noted that BGI supports a "Circuit Breaker with Modified Uptick" restriction that is narrowly tailored to apply only during substantial selloffs in a particular security (a 10% decline in market value). That position remains unchanged and we believe it is superior to the newly proposed alternative uptick rule

There are several important considerations in our view.

The alternative uptick rule has the advantage that it would not require monitoring of the sequence of bids, which is technologically difficult and potentially very costly with respect to actively traded securities traded in a variety of venues. In our view the alternative uptick proposal is far more restrictive than a zero-or-plus tick rule in that it applies at all times to a wide range of securities. Essentially, the Commission is taking the view that short selling has a negative impact on market quality despite the absence of any empirical evidence to support that claim. As we noted before, we distinguish between short selling practices (e.g., naked shorting) that are in violation of the Commission's rules (e.g., Rule 204T) and legal short selling that is an integral part of the price discovery process and contributes to liquidity. In our view, short selling ensures that relevant information, positive or negative, is fully reflected in a stock's price and can help mitigate asset bubbles that distort valuations. Short selling is also a source of liquidity that helps to balance the supply and demand of order flows, stabilize the market and keep bid-ask spreads and volatility at reasonable levels

While the alternative uptick rule may prove convenient or easy to implement, it effectively would require short sellers to use limit orders to effect their sell orders.

[1] BGI is one of the world's largest institutional investment managers, and the world's largest provider of structured investment strategies such as indexing, tactical asset allocation and quantitative active strategies. The clients that invest in these strategies are primarily defined benefit pension plans sponsored by corporations or public agencies, and endowments, foundations and similar pools of capital. All of our strategies rely heavily on the smooth functioning of the equity markets, and on the efficient price-discovery mechanism that is at the heart of a well functioning, well regulated marketplace.

The immediate impact at the point of order submission will indeed be to narrow the quoted spread. However, an unintended consequence of this rule can be the negative impact on liquidity and price discovery over the longer period. To see this, it is useful to consider an example where a stock is quoted at $20.00 bid for 500 shares and $20.05 offered for 1,000 shares. A short seller wishing to sell 1,000 shares would be required to post a limit order at prices $20.01 or higher under the alternative uptick rule, thereby immediately and mechanically narrowing the quoted bid-ask spread at the time of order posting. However, market participants observing a large limit sell order might in response withdraw their bids. So, in this example, the dealer or liquidity provider currently quoting $20.00 may withdraw their bid and re-post at (say) $19.95, thereby actually widening the spread. Traders are well aware of this phenomenon, namely that limit orders can themselves have market impact.

For the short seller (unlike a natural long seller who can use market orders or marketable limit orders to effect their desired transactions), the impact of the rule change is an increase in the risk of non-execution. In securities with wider spreads, this risk is likely larger. That is especially relevant for short sellers who sell as part of a market neutral strategy because sells are balanced against buys. The risk of non-execution on the sell side reduces buy side interest as positions must be hedged and serves only to reduce the speed of price discovery. In BGI's view, the alternative uptick rule will effectively add to the cost of selling short and, much like a tax, will discourage that activity without any of the attendant benefits (e.g., fairness, transparency) cited as factors in the choice of public policy.

Given the broad scope of the alternative uptick proposal (i.e., to all short sales), the Commission is not addressing the concerns around short selling during a major market sell off where, we would argue, the nature of short selling activity can be materially different from that of normal market conditions. Most of the concerns we have heard expressed actually concern illegal market manipulation during such distressed periods rather than short selling in general.

In summary, we believe that adopting the proposed alternative uptick rule would be deferring to what is convenient rather than what is optimal. If adopted, it would reduce liquidity and raise the odds of price distortion and volatility in the long run, contrary to the stated goals of public policy.

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We thank the Commission for the opportunity to comment on the proposed amendments to Regulation SHO. Should you require any clarification or additional information, please do not hesitate to contact me.

Very truly yours,

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