EUROPEAN
INVESTORS

717 Fifth Avenue
New York, NY 10022
212 644 0794 (tel)
212 644 0028 (fax)

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

Dear Ms. Murphy:

We are responding to the proposed uptick rule and re-opening of the comment period following up on our earlier submission dated June 19, 2009. We thank the Commission for the addition of the alternative price test and opportunity for further comment.

This comment incorporates and expands upon our original comment in which we submitted as study from the perspective of a particular industry, that of equity real estate investment trusts (REITs), with the following observations and recommendations:

We believe the demise of the uptick rule has impacted many market sectors, few as dramatically as REITs.

Observations:

- *Exchange traded funds (ETFs) have come to dominate the trading of REITs as de facto derivatives, and have served to drastically alter the investment characteristics of REITs by engendering hyper-volatility and converging correlations with other financial stocks*

- *ETFs were first to be exempted from the uptick rule, which played a significant role in their dramatic growth. Having achieved substantial market share, the exemption of ETFs undermined the rationale for the uptick rule for other equities*

- *The SEC's empirical analysis in 2004 of the impact of the elimination of the uptick rule was flawed because the period it examined covered relatively stable and rising markets in an expanding economy*

- *Leveraged short and long ETFs are analogous to put and call options, are particularly egregious in their distortion of the underlying REIT market, and appear to represent a violation of the margin rules*

- *Historically derivatives have been separately distributed, limited to qualified investors, and subjected to strict size limits because of their riskier characteristics, but ETFs are incorporated into the conventional equities market without such limits*

- *When derivatives have nevertheless broken through these barriers to overwhelm the underlying market for securities, new regulations have been imposed to bring them back into balance.*

Recommendations:

- *The SEC should re-impose the uptick rule and have this rule apply to all equities including ETFs, which we believe should have a significant impact toward restoring balance and ameliorating the current problem*

- *Although we do not opine on the precise form of the re-imposition of the uptick rule, we recommend that the rule should be transparent, easily administrable, and rigorously enforced.*

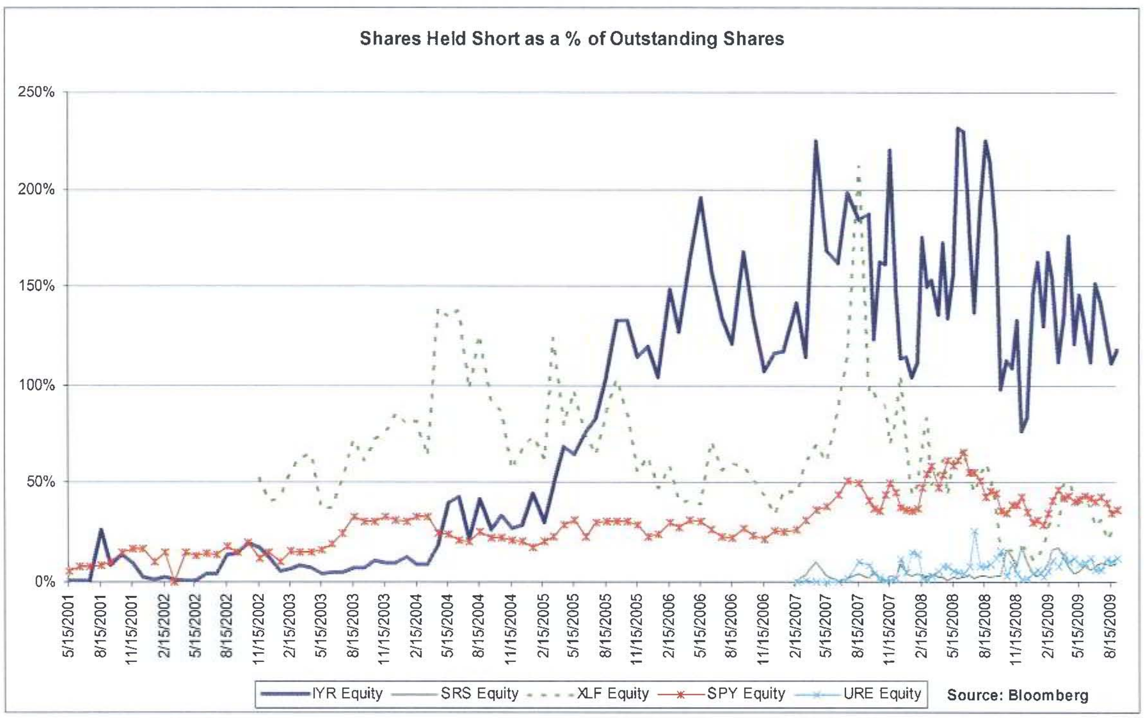
In this comment we will expand on these Observations and Recommendations with additional data to support our conclusions.

European Investors Incorporated, established in 1983, and its subsidiary EII Realty Securities are Registered Investment Advisors. Our primary focus is investment in Global Real Estate Securities including US and international equity REITs and Real Estate Operating Companies (REOCs). We also manage some general equity and fixed income investments. Total securities assets under management exceeded $4.3 billion as of August 31, 2009. We also have an advisory service for direct real estate investments with assets under management of over $1.7 billion. Our clients include high net worth and institutional investors in the US and abroad, including mutual funds and unit trusts advised and sub-advised domiciled in the US, Ireland, and Luxembourg.

Our previous commentary documented how the initial exemption from the uptick rule was a key factor in the growth of ETFs. Subsequently the fact that it was so common to short ETFs without an uptick rule meant that there was little rationale for maintaining the uptick rule for all stocks, with the result that the rule was eliminated altogether in July 2007. This has had the effect of increasing volatility for all stocks, and in some instances increasing correlations among different industry sectors. This phenomenon is particularly visible in REITs, which we showed are approximately 10x as impacted by ETFs as the average stock.

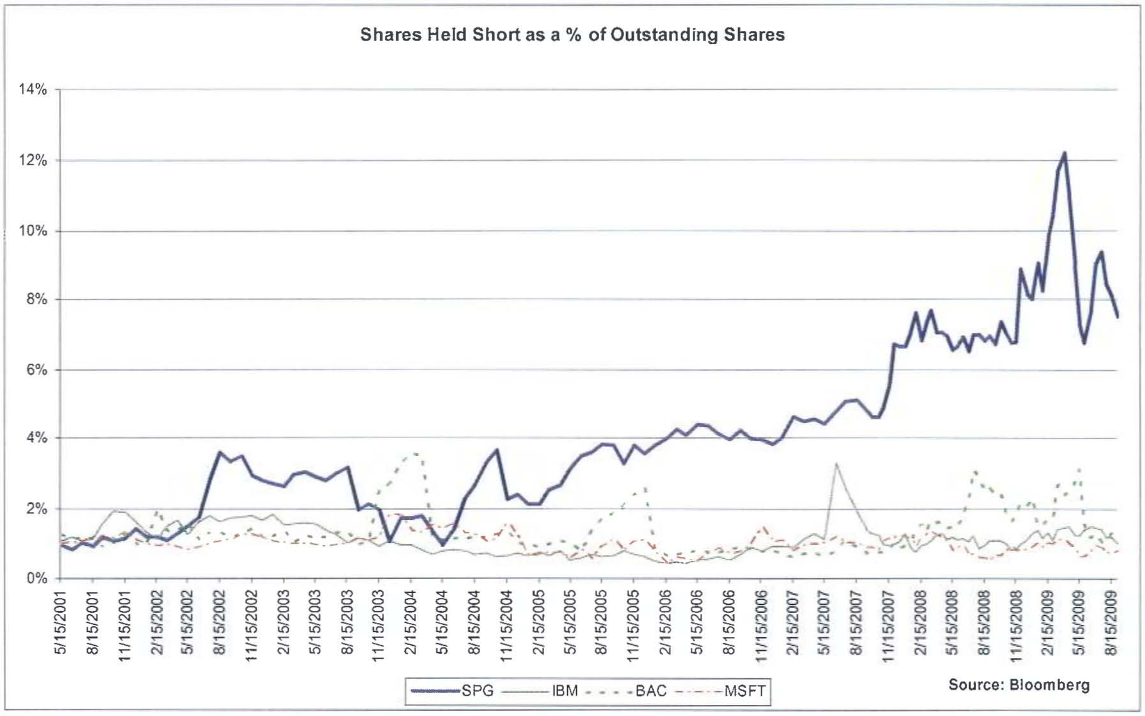
Additional Observations: Shorting of ETFs

We have developed further data on the propensity of ETFs to be used by short sellers, which show that ETFs are much more intensively used by short sellers and REITs are impacted disproportionately. More specifically, the following two charts show that ETFs have a propensity to be 50-200x more short than conventional stocks. Additionally, REIT ETFs are up to 4x as inclined to be short as broader based ETFs, and average 150x as much as conventional stocks. REIT common stocks have become approximately 5-10x as short as conventional stocks. The charts show the percentage of shares held short as a percent of shares outstanding of representative ETFs since 2001:



Note that the among the largest ETFs the SPDR Trust Series 1 ETF (SPY) with the S&P 500 as its reference index has had an average short position of approximately 40% of shares outstanding, rising to a peak of 60%. The short position of the Financial Select Sector SPDR ETF (XLF) has been more variable, but has averaged approximately 75% and peaked at over 200% [1]. The short position of the iSHARES Dow Jones US Real Estate ETF (IYR), the largest unleveraged REIT ETF, has averaged over 100% short; indeed since 2005 it has averaged approximately 150% short and has peaked on many occasions at over 200% short.

The following chart measures three conventional stocks on the same metric of the short position as a percent of shares outstanding:



Microsoft and IBM are representative large capitalization stocks, and they have ranged from 1-3%, with an average of only about 1% of shares held short, and this figure has been remarkably stable. Bank of America, one of the largest financial companies, had a slightly higher propensity to be short rising to about 3% during the worst of the financial crisis. Simon Property Group, one of the largest REIT stocks in terms of market capitalization, has seen a steady rise in the percentage of its shares outstanding held short, rising from an average of 2% to over 8% subsequent to the elimination of the uptick rule in mid-2007, with a peak of 12% during the most tumultuous period of the recent market downturn.

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[1] According to discussions with iSHARES, a leading ETF sponsor, an ETF can be 200% net short as follows: an ETF share is created through a long purchase, that share is borrowed and sold short, and then that share is borrowed and sold short again. At the end of this process there are three long positions and two short positions with only one share outstanding, and thus the short position is 2x the amount of the shares outstanding.

The fact that ETFs are so heavily shorted means that they are being used disproportionately by hedgers and speculators in comparison to conventional stocks. This is the traditional role of derivatives, so this explains how ETFs have come to function as de facto derivatives. Thus, compared to other common stocks and open-end non-traded mutual funds, their chief function is not that of capital formation (the bringing together of providers and users of capital), which is the primary purpose of the capital markets. The fact that REIT ETFs are among the most heavily shorted corroborates our case that REIT ETFs have become de facto derivatives that are drastically altering the investment characteristics of REIT stocks. In our June 19 letter we showed that REIT volatility has increased by approximately 10x in the period coincident with the rise of ETFs, and their correlations with financial stocks have converged to nearly 100%.

One further observation: the propensity to be short by leveraged ETFs is comparatively low. The Ultra Real Estate Proshares (URE) ETF which is 2x leveraged for the Dow Jones REIT Index is only about 10% short peaking at 15%, much less than other ETFs. That is largely explained by the fact that there is a companion leveraged short ETF, the Ultra Short Real Estate Proshares (SRS) ETF REITs which is 2x leveraged short the same index, so it is not necessary to short the leveraged long REITs to hedge or speculate.

Thus these examples show that hedging and speculative impact of ETFs through disproportional shorting has included conventional ETFs, and is not limited to leveraged ETFs.

The most important conclusion is since ETFs are so heavily used for short selling, it makes no sense to restore an uptick rule in any form and then to continue to exempt ETFs.

Further Comment on Leveraged ETFs

The fact that leveraged ETFs are less prone to be held short does not change our prior observations that they are the most egregious example of how ETFs have become de facto derivatives roiling the underlying markets. Rather this is a function of the violation of the spirit, if not the letter, of the margin rules that are inherent in the structure of these vehicles.

Specifically, ETFs are mutual funds, meaning they are regulated under the Investment Company Act of 1940 ('40 Act). Leverage for '40 Act funds was supposed to be limited to 33% initial margin, and even that is in the form of equity securities. Recent implementations of that were the leveraged closed-end funds leveraged with floating rate preferred stocks (which ended badly in this cycle). However, the 2x and 3x leveraged ETFs mathematically begin with 50-

67% leverage using the new financial technology of equity swaps. In turn, these securities were margin eligible requiring only 25% initial margin (only half the 50% as stated in our June 19 letter) . Thus an investor could achieve up to 12x leverage buying a 3x leveraged fund with only 25% margin (i.e. 3/0.25).

Regulators including the SEC have been taking increasing notice of these factors along with the phenomenon that the leveraged funds do not provide the projected returns relative to the underlying index except overnight. Recently there have been a series of announcements restraining the use of leveraged ETFs, showing a growing awareness of these concerns. The SEC and FINRA have announced a tightening of the margin rules for these instruments as of December 1, 2009, multiplying the required initial margin by the leverage ratio of the fund. However, this is still not enough of a restraint since the leverage achievable is still up to 4x, more than twice that authorized in the '40 Act.

The whole issue of the proper use of swaps is being reconsidered by the SEC and other regulators. Swaps (particularly credit default swaps in the debt markets) are explicitly a form of derivative, and they have been under-regulated and under collateralized. They are at the core of the financial implosion in this economic and market cycle. The fact that leveraged ETFs are heavy users of equity swaps explains why they have become de facto derivatives in their impact on the underlying markets, as noted in our June 19 letter. In July 3x leveraged long and short REIT ETFs were issued by Direxion, a further manifestation that this phenomenon is still growing.

The re-imposition of the uptick rule and having that rule apply to leveraged ETFs will have relatively little impact because of the leveraged short versions of these securities that would not require an uptick on purchase. Therefore, to limit the worst effects of these securities, the equity swaps which underlie these instruments should be subject to the same scrutiny and increased collateral and regulatory requirements as those being considered for all other swaps.

Recommendations: The Alternative Uptick Rule

The newly proposed alternative uptick rule appears to be more restrictive then the two original proposals and their variations. As we stated in our June 19 letter, we recommend that any rule should be transparent, easily administrable, and rigorously enforced.

The more restrictive Alternative Uptick Rule appears to meet these tests. On further consideration the earlier proposals would be less likely to do so. In particular, the modified circuit breaker rule that only applies after a stock is down over 10% intraday is so loose as to be almost meaningless, and would seem to be quite difficult to administer.

Under the "Exemptions" listed on the new proposal, we do not observe one listed for ETFs. By implication they would therefore be subject to the Alternative Uptick Rule were it to be adopted.

Since the proposed Alternative Rule appears to meet our tests of transparency and ease of administration, and since it appears that under the proposed rule ETFs are no longer exempt, we recommend it be adopted. Consistent with our prior recommendation, once the rule is adopted we recommend that it be rigorously enforced. We believe that doing so will help to lower volatility in the market in general and reduce industry correlations, and in particular will help to restore the investment characteristics that REITs were intended to provide.

Respectfully Submitted,

Richard J. Adler
Managing Director

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717 Fifth Avenue
New York, NY 10022
212 644 0794 (tel)
212 644 0028 (fax)

June 19, 2009

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

Re: File No. S7-08-09

Dear Ms. Murphy:

We are responding to your request for comments on the proposal for the re-imposition of a form of the uptick rule. We have prepared a study which we are attaching as part of this response. Our study and recommendations provide perspective from that of a particular industry, equity real estate investment trusts (REITS). We believe the demise of the uptick rule has impacted many market sectors, few as dramatically as REITs. Our observations and recommendations are summarized as follows:

Observations:

- Exchange traded funds (ETFs) have come to dominate the trading of REITs as de facto derivatives, and have served to drastically alter the investment characteristics of REITs by engendering hyper-volatility and converging correlations with other financial stocks

- ETFs were first to be exempted from the uptick rule, which played a significant role in their dramatic growth. Having achieved substantial market share, the exemption of ETFs undermined the rationale for the uptick rule for other equities

- The SEC's empirical analysis in 2004 of the impact of the elimination of the uptick rule in was flawed because the period it examined covered relatively stable and rising markets in an expanding economy

- Leveraged short and long ETFs are analogous to put and call options, are particularly egregious in their distortion of the underlying REIT market, and appear to represent a violation of the margin rules

- Historically derivatives have been separately distributed, limited to qualified investors, and subjected to strict size limits because of their riskier characteristics, but ETFs are incorporated into the conventional equities market without such limits

- When derivatives have nevertheless broken through these barriers to overwhelm the underlying market for securities, new regulations have been imposed to bring them back into balance.

Recommendations:

- The SEC should re-impose the uptick rule and have this rule apply to all equities including ETFs, which we believe should have a significant impact toward restoring balance and ameliorating the current problem

- Although we do not opine on the precise form of the re-imposition of the uptick rule, we recommend that the rule should be transparent, easily administrable, and rigorously enforced.

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As a result of our long experience covering six business cycles and three real estate cycles and our industry focus we have observed many changes in the size and character of the real estate securities markets. We understand that this is a cyclical industry, and it is necessary to segregate cyclical factors from technical factors to come to proper recommendations as to appropriate market regulation. However, of all the changes we have observed none have been so drastic and destabilizing as we have seen in the last two years, which has fundamentally altered the investment characteristics of REITs.

We believe this is an unintended consequence of the convergence of market de-regulation and financial innovation. Specifically, we believe this outcome is in significant part the result of the change in SEC regulation eliminating the original uptick rule which enabled the rise to dominance of the markets by exchange traded funds (ETFs). More recently leveraged long and short ETFs have emerged, which not only rely on the demise of the uptick rule, but appear to us to be an abrogation of the margin rules. We show that REITs are disproportionately impacted by these vehicles because of their relatively small market capitalization relative to the number and trading volume of shares of REIT-related ETFs, and therefore the consequences of the deregulatory actions are magnified and more clearly observable.

Specifically REITs constitute approximately 7% of volume of US equity related ETFs even though their market cap is only about 1.7% of the Russell 3000's market capitalization. The trading volume of REIT shares has grown over 8x coincident with the growth in ETFs. ETF related transactions have grown to dominate the trading of REITs: in notional terms the dollar volume of ETF related transactions has risen from 10% to nearly 200% of all REIT transactions. The excess is explained by equity swaps by ETFs that are substantially hedged by counterparties in the actual REIT share market. During this period the daily trading volume for the largest REIT Simon Property Group has risen to 10% of its shares outstanding relative to 1% for IBM, a large cap non-REIT. The consequences of deregulatory actions are more clearly observable from the 10x magnification of the impact on REITs.

These conclusions are not just based on statistics, but are broadly corroborated by traders and portfolio managers who observe the trading impact on a regular basis. A key example is the numerous sizable buy-on-close or sell-on-close transactions where REITs are disproportionately represented. On many occasions, whatever direction the market has been going will be accentuated from 3:00PM until the close. These types of trades overwhelm the normal order flow in the underlying shares and are classic examples of transactions used to establish or hedge ETF positions.

REIT ETFs have become the de facto derivatives for the commercial real estate industry. Despite several attempts over the years by futures exchanges, the fragmented nature of real estate had precluded the development of a real estate future. Listed options markets for even the largest capitalization REITs never achieved significant volumes, in part because of REITs high dividends and low volatility. For many years hedge funds found REITs unattractive relative to many other alternative sectors for the same reason, with the high dividend yield creating a negative carry for short positions and low volatility and transaction volumes limiting potential gains from trading. Into this derivatives vacuum came ETFs, which are more expensive to transact than other forms of derivatives. Their growth was abetted by exemption from the uptick rule. As they grew over time they overcame the historic impediments to derivatives in REITs. The market capitalization of the NAREIT Equity Index was an estimated $356 billion at year-end 2008, representing 6% of the estimated $5.9 trillion commercial real estate asset class. A derivative used to hedge this much larger asset class can subsume the underlying traded shares. In recent months ETFs have become the overwhelmingly dominant factor transforming the entire REIT sector into a hyper-volatile trading vehicle almost beyond recognition as a form of commercial real estate. This has already had severe real world consequences for the REIT industry, and if not remedied threatens its long-term viability.

The role of the capital markets is to bring together the providers and users of capital. Proper functioning of capital markets is an essential part of our economy, and is the purpose for which the SEC was established. The role of derivatives markets is to help allocate risk among investors, but it is tangential to the primary function of the capital markets themselves. Derivatives are used to manage volatility of underlying markets, yet one of their effects is to create volatility in those markets, so in a sense they are a self-perpetuating phenomenon. The SEC has a long history of protecting the function of the primary market with restrictions on the derivative markets, relegating them to separate exchanges with special qualifications for investors and limits on their scale. When inadvertently the tangential function of derivatives has grown to a point of threatening the primary function of the capital market, the SEC has taken remedial regulatory action to restore the proper balance. We believe we are again at such a point requiring such re-regulation.

Unlike other derivative markets, ETFs are not traded on separate exchanges subject to special qualifications for market participants, separate margin rules, and limits as to their size and scale. Rather they are distributed through the conventional stock market and have even provided a primary rationale for the elimination of such constraints. Originally ETFs covered very large market sectors such as the S&P 500 or the NASDAQ where other derivative instruments already existed, such as the S&P 500 index futures. Over time as ETFs became more focused on smaller market sectors without pre-existing derivatives their impact has become much greater. The rationale for the uptick rule exemption was made when the size and concentration of ETFs was benign, but as demonstrated by REITs that is no longer the case.

Leveraged long and short ETFs have taken deregulation and financial innovation one step further and are the most egregious examples of this out-of-control derivative phenomenon from their impact on REITs. They have developed over the last two years and have attracted assets well in excess of $8.5 billion. We and others have shown that these vehicles only achieve their goal of 2x or 3x matching of the stipulated underlying index on a daily basis. Over time due to compounding and frictional trading costs they are decaying assets. A one-to-one combination of a 3x levered long and short REIT ETF position purchased at the inception of trading on November 6, 2008 has declined in value by 90% in 7 months. If that combination were rebalanced back to one-to-one at the daily close so as to attempt to maintain a neutral position, the combination has lost over 40% of value in the same period. These characteristics have not gone unnoticed, and sponsors and advisors have focused on these instruments as vehicles for day traders. The daily turnover in many instances equates to their market capitalization. That much money levered 2 to 3 times flowing into and out of the underlying securities on a daily basis creates disproportional volume and volatility in those securities. 2x and certainly 3x leveraged ETFs appear to be a violation of the margin rules requiring a 50% initial margin, and given their volatility, they are very likely to quickly breach the 30% maintenance margin that would be required were the underlying securities purchased or sold short directly. Indeed, as listed equities, an investor could invest in these ETFs on 50% initial margin and magnify the effective leverage to 4-6x. Leveraged assets that decay as a function of time are called puts and calls, and are separately regulated. Though leveraged ETFs may be deemed to be analogous to puts and calls, they are not regulated in the same manner.

As a separate matter from the uptick rule, leveraged ETFs should be reconsidered from the standpoint of the 50% initial margin rules for listed equities. At a minimum leveraged ETFs should not themselves be margin eligible securities. It has been stated that the re-imposition of the uptick rule would make it impossible to implement these instruments, particularly the levered short ETFs. If that is the case they should be terminated, because whatever utility they provide to a small community of day traders is not as important as the damage they are causing to the vital underlying equity market.

The most notable example of the unconstrained growth and re-regulation of derivatives came from the Crash of '87. In the 1980's regulators had had the foresight to limit the number of listed stock index options, but no such size limits were stipulated for stock index futures. Using stock index futures dynamically under the rubric of Portfolio Insurance, the technique grew to such an extent that it came to dominate the stock market. The effect of its unconstrained implementation was pro-cyclical, first driving the market to heights unsustainable on fundamentals, and then drastically collapsing it. When regulators completed their forensic studies, they developed the remedy of circuit breakers stopping trading in the futures for specified periods of time when certain market volatility levels had been breached. This had the effect of curtailing the excess use of the technique, shrinking the stock index futures market into an appropriate scale where it can be a useful hedging tool but not one whose over-use threatens the viability of the entire stock market.

There is an analogy in the current environment, this time observable at the industry level. In this case the dominance of a form of derivative has again drastically altered the investment character of a market sector, which if left untreated, we believe will likely seriously threaten the viability of the sector. Since volatility is the measure of risk associated with securities, the newly engendered hyper-volatility of REITs fundamentally erodes their value proposition. Historically REITs have been characterized by low volatility more analogous to the long-term commercial real estate properties which make up their portfolio of assets. REITs have also been characterized by high dividend yields resulting from their requirement to distribute 90% of taxable income under IRS rules. Already cash dividends have been curtailed in this environment, partly for cyclical operating reasons, but partly as the result of over $15 billion of dilutive equity offerings required in part to address the consequences of the hyper-volatility in their share prices.

Beta is the measure of volatility of securities relative to the S&P 500 stock index. The beta of REITs has persisted for decades at an average of approximately 0.6. This low volatility characteristic has persisted for four decades through six business cycles. In the last two years the beta of REITs has risen drastically to over 1.6, on top of a more than tripling of the volatility of the broad market. This tripling of volatility in the S&P 500 is no doubt itself a manifestation of the impact of the demise of the uptick rule, but when focused on REITs the absolute increase in volatility has increased by more than ten fold. What differentiates this cycle that would cause the volatility and trading characteristics of REITs to be so dramatically altered from all past cycles and bear markets? We believe it is the demise of the uptick rule and the resulting unconstrained growth in ETFs and leveraged ETFs.

A second manifestation of the overpowering dominance of ETF trading of REITs is the loss of diversification. REITs represent approximately 10% of the indexes that are the basis of the financial ETFs. Historically the correlation of REITs with financials has varied widely, but in recent years as financial ETFs volume has grown the correlation has grown to nearly 1.0. This is a manifestation of the mechanical nature of ETF related transactions. REIT returns have been conflated with financials even though they have very different business models than banks, insurance companies, and other entities in the financial indexes. This has come at a time when financials have been under particular pressure. This conflation has served to overwhelm the historically defensive characteristics of REITs stemming from their high dividend yields supported by contractual leases and long-term real assets.

REITs provide an important function of democratizing the ownership of commercial real estate, and serve a vital role for many investors. In particular 401k retirement accounts and pension funds employ them as a means of providing dividend yield, diversification, and an inflation hedge. Because of aging demographics these investment characteristics should make REITs amongst the most attractive sectors of the equity markets in the future. Furthermore, by broadening access to equity capital, they have provided a source of growth and stability to the commercial real estate markets, an industry that affects every city and town in the country. All this is threatened if this hyper-volatility persists.

Reviewing the SEC's rationale for the decision in 2007 to eliminate the uptick rule, we believe the SEC's studies showing the lack of impact for the elimination of the uptick rule were flawed because the time period measured was one of a relatively stable or rising stock market. Until completely cycle-tested the impact of a change in regulation is not fully understood. There is now ample evidence that the elimination of the uptick rule (and apparent naked shorting) has failed its cyclical test and has exacerbated the severity of the current market downturn.

Whatever the reasons for exempting ETFs from the uptick rule, at the time this exemption was granted they were a very small factor in the market. They covered large segments of the market such as the S&P 500 or the NASDAQ where there were already competing futures and options. As they have grown and proliferated they have focused on smaller market sectors without alternative derivatives so as to magnify their impact, with REITs being the prime example. Their vast growth was in no small part enabled by their exemption from the uptick rule. Once having grown, their prior exemption enabling easy bypassing of the uptick rule was one of the key reasons for its final demise. If the uptick rule is re-imposed as we recommend, ETFs must be not be exempted again from whatever form of this rule that is established. It makes no sense to impose a rule for a securities market and then to exempt the securities, namely ETFs, which represent a very significant portion, and in many cases the majority, of the trading of securities in that market.

With regard to the form of the uptick rule to be applied, the original version had the virtue of simplicity and clarity. If multiple markets for securities now make that version obsolete, then a best-bid alternative appears to be the closest to that version, but it seems less transparent. A "circuit breaker" approach would be analogous to the remedy applied following the Crash of '87. Since it applies to individual securities and not to entire separately traded markets as was the case with stock index futures, this approach seems difficult to implement and enforce.

In summary, in order to mitigate hyper-volatility and loss of diversification, and thus help to restore the value proposition of REITs, we recommend that the uptick rule be reinstated in the most transparent and enforceable manner and that it apply to all traded equities, including ETFs.

Respectfully submitted,

Richard J. Adler

Richard J. Adler
Managing Director

European Investors

717 Fifth Avenue • New York, NY 10022 • Tel: (212) 644-0794



June 2009

The ETFication of REITs

European Investors

Growth and Impact of REIT related ETFs

- The growth of ETFs has been enabled by deregulation from their exemption and the subsequent elimination of the uptick rule
- The number, size, and industry specific trading volume of ETFs have grown dramatically in recent years
- Financial and REIT ETFs have grown 5X more than other major US Equity ETFs
- Relative to their equity market capitalization, REITs are 8X as exposed to ETFs
- ETF related trades have risen to become a significant majority of REIT transactions
- The explosion of ETFs have served to radically alter the investment character of REITs
  - Trading volume has risen 5X
  - Absolute volatility has risen 10X
  - Beta (relative volatility) has risen 4X
  - Correlations with financials and general equities have converged.
- ETFs have become de facto derivatives for REITs and by extension for commercial real estate
- Leveraged short and long ETFs are decaying assets analogous to puts and calls and have a particularly egregious impact on trading and investment characteristics of REITs
- ETFs are what is different this time: In past economic cycles and REIT bear markets the investment characteristics of REITs were not drastically altered

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Regulatory Policy Implications

- The primary function of the capital markets is to bring together providers and users of capital
- The primary function of derivatives is to reallocate risk among providers of capital and is tangential and secondary to the overall capital markets function
- When derivatives run amok and overwhelm the normal functioning of the capital markets it calls for reregulation
- Restoration of the uptick rule for all equities removing the exemption for ETFs would help restore this balance
- Because they appear to represent a violation of the 50% initial margin rules for listed equities, levered ETFs should be reconsidered, especially 3X leveraged ETFs, at a minimum they should not themselves be margin eligible.

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European Investors

Real Estate ETFs

Ticker	Name	5 Day Avg Volume	Inception Date	Fund Total Assets (000s)	Industry Subroup
VNQ US Equity	VANGUARD REIT ETF	2,200,411	9/29/2004	2,074.132	Sector Fund-Real Estate
IYR US Equity	ISHARES DJ US REAL ESTATE	24,465,684	6/19/2000	1,402.752	Sector Fund-Real Estate
SRS US Equity	***PROSHARES ULTRASHORT REAL ES***	***35,397,096***	***2/1/2007***	***1,383.579***	***Sector Fund-Real Estate***
ICF US Equity	ISHARES COHEN & STEERS RLTY	1,059,906	2/2/2001	1,165.860	Sector Fund-Real Estate
RWR US Equity	SPDR DOW JONES REIT ETF	1,193,643	4/27/2001	962.286	Sector Fund-Real Estate
XHB US Equity	SPDR S&P HOMEBUILDERS ETF	7,650,713	2/6/2006	556.455	Sector Fund-Real Estate
URE US Equity	***PROSHARES ULTRA REAL ESTATE***	***36,282,072***	***2/1/2007***	***437.545***	***Sector Fund-Real Estate***
REZ US Equity	ISHARES FTSE NAREIT RESIDENT	26,486	5/4/2007	16.079	Sector Fund-Real Estate
FTY US Equity	ISHARES FTSE NAREIT REAL EST	9,943	5/4/2007	15.338	Sector Fund-Real Estate
FFR US Equity	FT FTSE EPRA/NAREIT REAL EST	10,328	8/30/2007	7.476	Sector Fund-Real Estate
FRI US Equity	FIRST TRUST S&P REIT INDEX F	14,095	5/10/2007	4.681	Sector Fund-Real Estate
FIO US Equity	ISHARES FTSE NAREIT INDUSTRI	2,319	5/4/2007	4.113	Sector Fund-Real Estate
IFNA US Equity	ISHARES FTSE EPRA/NAREIT NOR	2,685	11/16/2007	3.540	Sector Fund-Real Estate
PSR US Equity	PWERSHRES ACT US REAL ESTATE	952	11/19/2008	2.675	Sector Fund-Real Estate
RTL US Equity	ISHARES FTSE NAREIT RETAIL	5,890	5/4/2007	2.412	Sector Fund-Real Estate

Data as of 06/17/09. Source: Bloomberg , Company Reports & EII Estimates

- According to Bloomberg, VNQ and IYR are the two largest ETFs. SRS, the 2X Short ETF is the 3rd largest ETF by total assets.
- Volume impact on underlining REIT shares is doubled by 2X leveraging of SRS and URE.
- 8 of the 15 Real Estate ETFs have less then $17 mn in assets.

European Investors

Financial ETFs

Ticker	Name	5 Day Avg Volume	Inception Date	Total Assets (000s)	Indsutry Subgroup	Approximate % in REITs
XLF US	**FINANCIAL SELECT SECTOR SPDR**	**131,089,408**	**12/22/1998**	**5,242,749**	**Financial Services**	**7.50%**
UYG US	***PROSHARES ULTRA FINANCIALS***	***42,207,216***	***2/1/2007***	***2,160,056***	***Financial Services***	***12.16%***
FAS US	***DIREXION DAILY FIN BULL 3X***	***160,749,456***	***11/4/2008***	***1,733,051***	***Financial Services***	***8.80%***
FAZ US	***DIREXION DAILY FINL BEAR 3X***	***180,723,504***	***11/4/2008***	***1,529,894***	***Financial Services***	***8.80%***
SKF US	***PROSHARES ULTRASHORT FINAN***	***40,762,688***	***2/1/2007***	***1,259,328***	***Financial Services***	***12.16%***
KBE US	SPDR KBW BANK ETF	6,038,149	11/15/2005	655,234	Financial Services	0.00%
IYF US	**ISHARES DJ US FINANCIAL SECT**	**5,645,143**	**5/31/2000**	**542,500**	**Financial Services**	**12.40%**
VFH US	**VANGUARD FINANCIALS ETF**	**322,069**	**1/30/2004**	**492,086**	**Financial Services**	**12.16%**
KRE US	SPDR KBW REGIONAL BANKING ET	5,041,953	6/22/2006	427,098	Financial Services	0.00%
IYG US	ISHARES DJ US FINANCIAL SVCS	2,152,238	6/21/2000	323,870	Financial Services	0.00%
RKH US	REGIONAL BANK HOLDERS TRUST	3,119,635	6/23/2000	239,912	Financial Services	0.00%
SEF US	***PROSHARES SHORT FINANCIALS***	***147,573***	***6/12/2008***	***177,795***	***Financial Services***	***12.40%***
IAI US	ISHARES DJ US BROKER DEALERS	472,017	5/5/2006	172,058	Financial Services	0.00%
IAT US	ISHARES DJ US REGIONAL BANKS	253,720	5/5/2006	143,910	Financial Services	0.00%
KIE US	SPDR KBW INSURANCE ETF	821,921	11/15/2005	113,918	Financial Services	0.00%
KCE US	SPDR KBW CAPITAL MARKETS ETF	855,808	11/15/2005	81,975	Financial Services	0.00%
PJB US	POWERSHARES DYN BANKING	31,126	10/12/2006	44,844	Financial Services	0.00%
IAK US	ISHARES DJ US INSURANCE IND	17,023	5/5/2006	32,505	Financial Services	0.00%
RFL US	***RYDEX 2X FINANCIAL***	***70,803***	***6/12/2008***	***20,405***	***Financial Services***	***6.47%***
PIC US	POWERSHARES DYN INSURANCE PT	5,940	10/26/2005	17,820	Financial Services	0.00%
PFI US	POWERSHARES DYN FINANCIAL	7,929	10/12/2006	15,080	Financial Services	0.00%
RYF US	RYDEX S&P EQ WGT FINANCIAL E	14,152	11/7/2006	12,077	Financial Services	NA
FXO US	FIRST TRUST FINANCIAL ALPHAD	10,606	5/10/2007	7,872	Financial Services	0.00%
EXB US	CLAYMORE/BEACON G E B & A M	6,390	6/27/2007	2,969	Financial Services	0.00%

Note: Bolded indicates a REIT component, Italicized indicates a leveraged ETF

Data as of 06/17/09. Source: Bloomberg , Company Reports & EII Estimates

- FAS and FAZ, the 3X ETFs are two of the most traded ETFs.
- In terms of Total Assets, XLF and UYG are the largest ETFs.
- Based upon reported holdings, we have estimated the REIT/REOC exposure in various Financial ETFs.
- REITs constitute approximately 10% of 6 of the 7 most actively traded financial ETFs.

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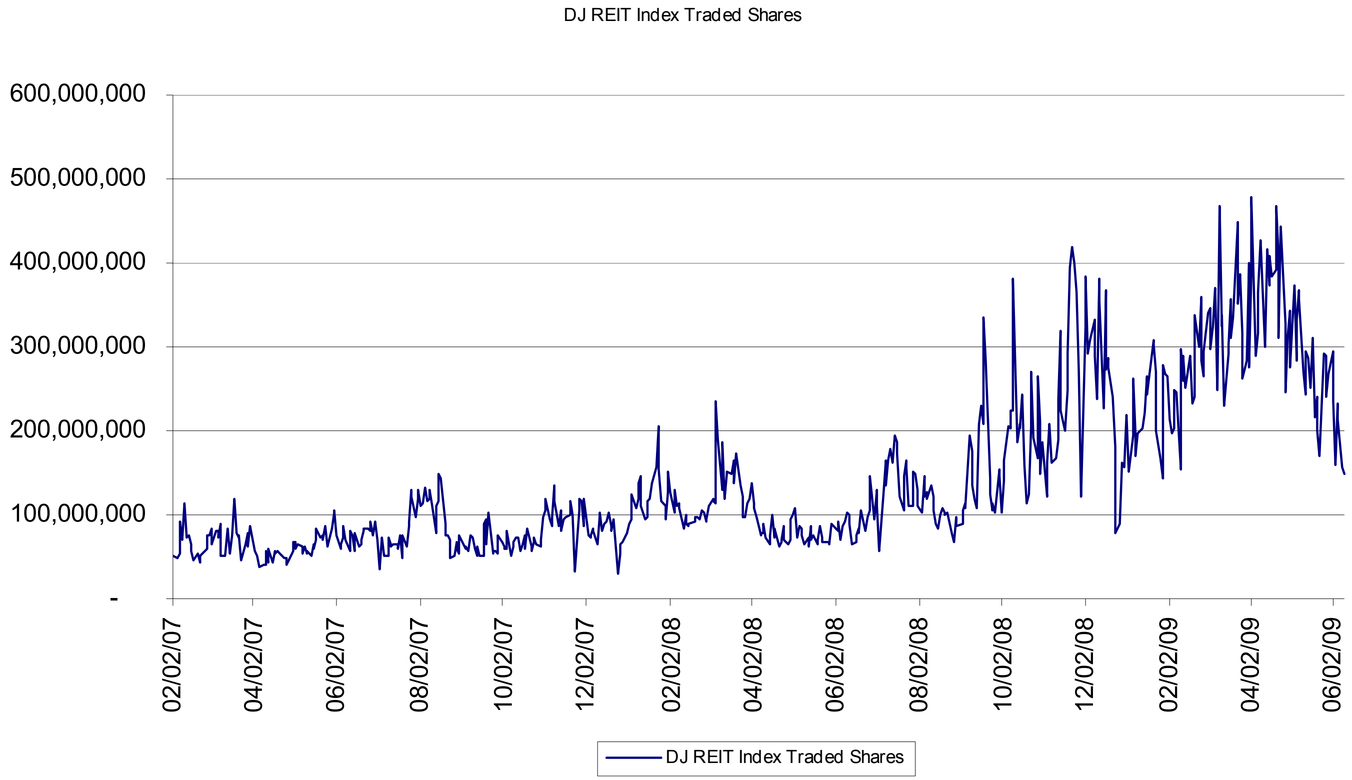
Dow Jones Real Index Traded Shares 2007 - 2009

Volume of REIT transactions has quintupled coincident with the growth of ETFs



Data as of 06/09/09. Source: Bloomberg & EII Estimates

Impact of ETFs on REIT share volume:
The daily volume of traded shares of the DJ Real Estate index has expanded from 50mn shares to peak of over 400 mn daily shares.

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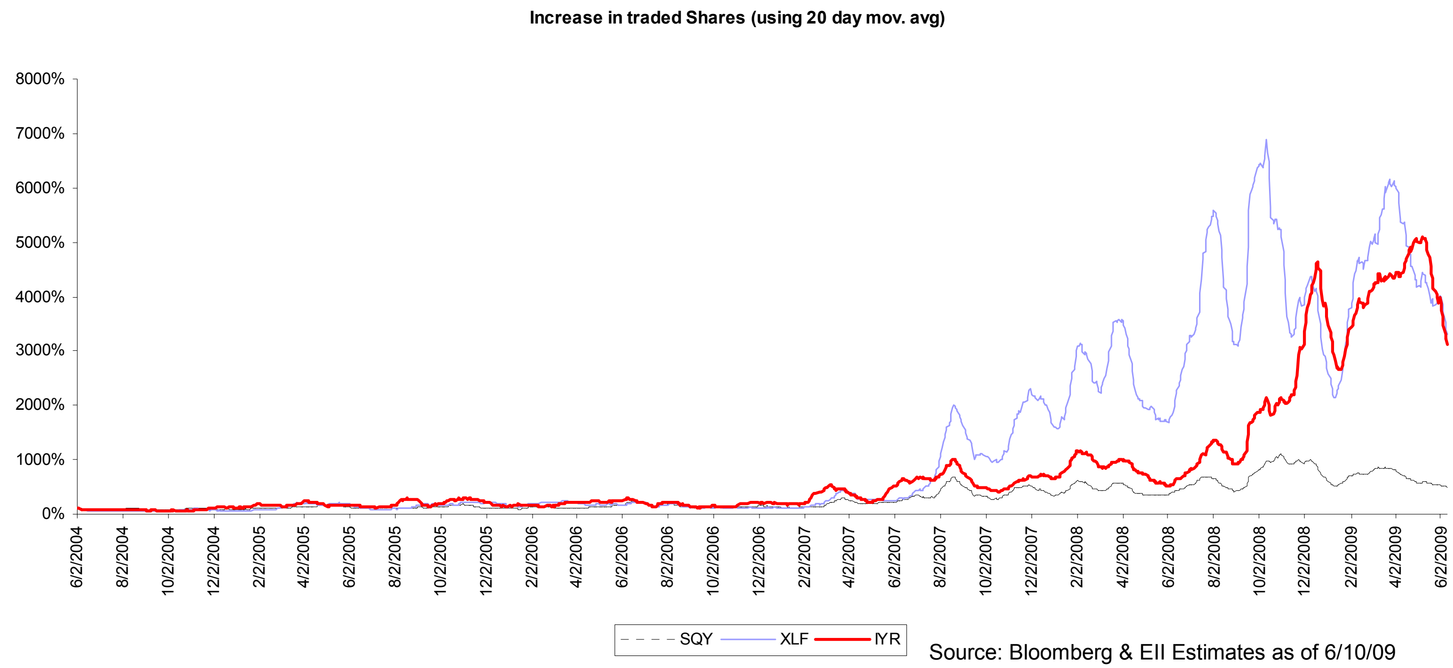
ETF Volumes since 2004



Source: Bloomberg & EII Estimates as of 6/10/09

- The explosive growth in REIT and Financial ETFs has primarily occurred over the past 2 years.
- Using a Base of 100 in June 2004, we have computed the daily traded volume in various major ETFs (SQY, XLF and IYR) relative to each other.
- The XLF had shown the greatest growth, but the IYR has also shown considerable growth.
- Trading in the SQY (S&P 500) has grown 10x, trading in the Financial (XLF) and REIT (IYR) has grown 5x the rate of general equities or 50x!

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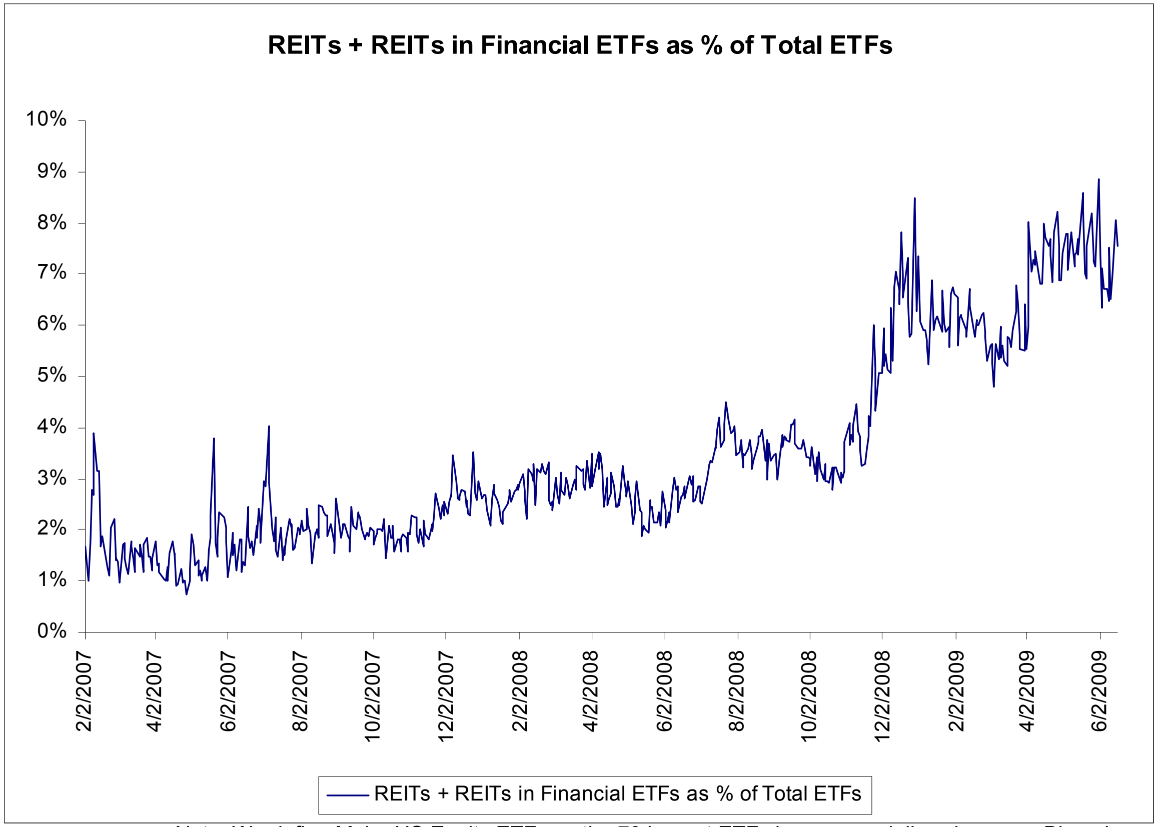
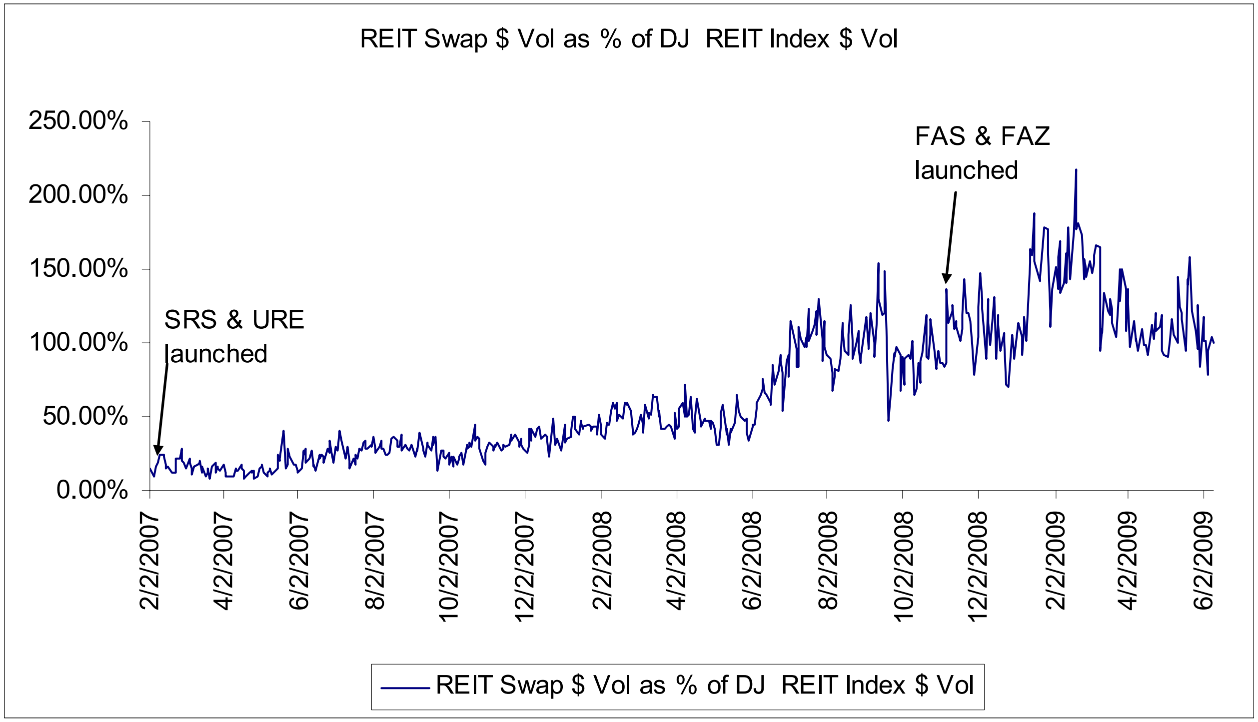
ETF REIT related volume as % of Major US Equity ETFs



Note: We define Major US Equity ETFs as the 70 largest ETFs in average daily volume per Bloomberg.
Data as of 06/15/09. Source: EII Estimates

We estimate that volume in REIT related ETFs has grown to over 7% of the total volume of the most active US equity ETFs, even though REITs constitute less than 2% of the market capitalization of the Russell 3000.

ETFs now dominate REIT trading



Data as of 06/15/09. Source: EII Estimates

On a dollar equivalent basis, we estimate that ETF related trading has risen from 10% to more than 180% of the actual dollar volume of REIT trades. The excess is explained by equity swaps held by ETFs in lieu of REIT share positions. Equity swaps are significantly but not totally hedged by counterparties in actual REIT transactions.

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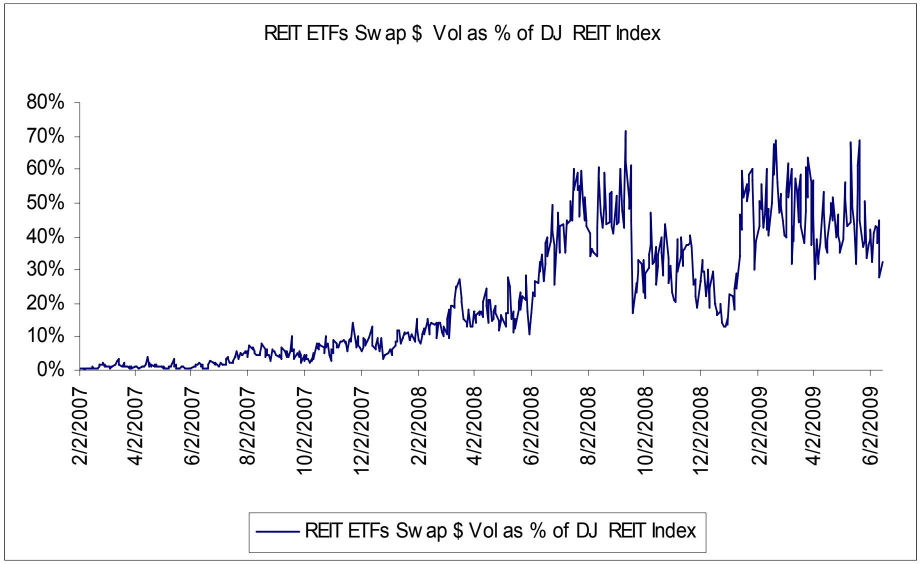
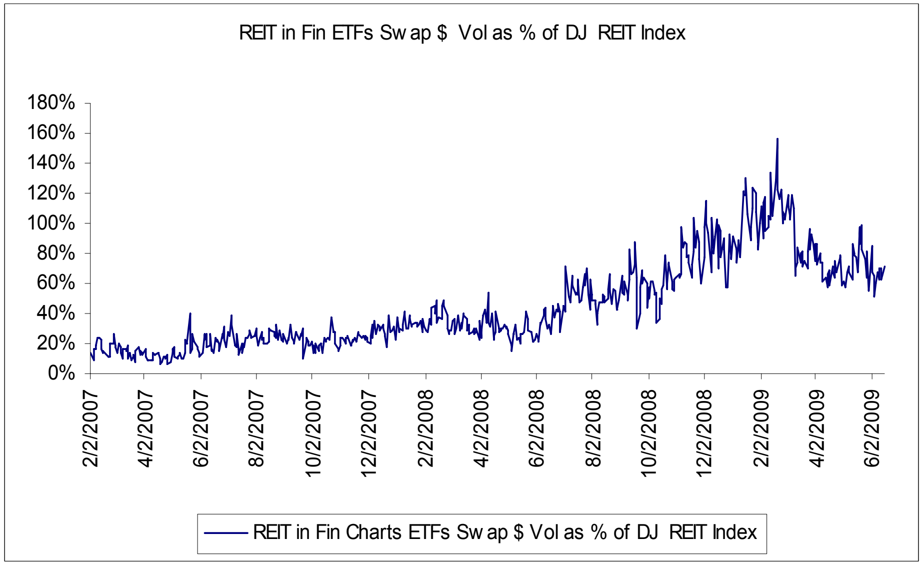
ETF components of REIT trading volume



Data as of 06/15/09. Source: EII Estimates



Data as of 06/15/09. Source: EII Estimates

We estimate that dedicated REIT ETFs account for 40% - 50% of the notional $ volume of REITs.

We estimate that the REITs component of Financial ETFs account for 60% - 80% of the notional $ volume of REITs.

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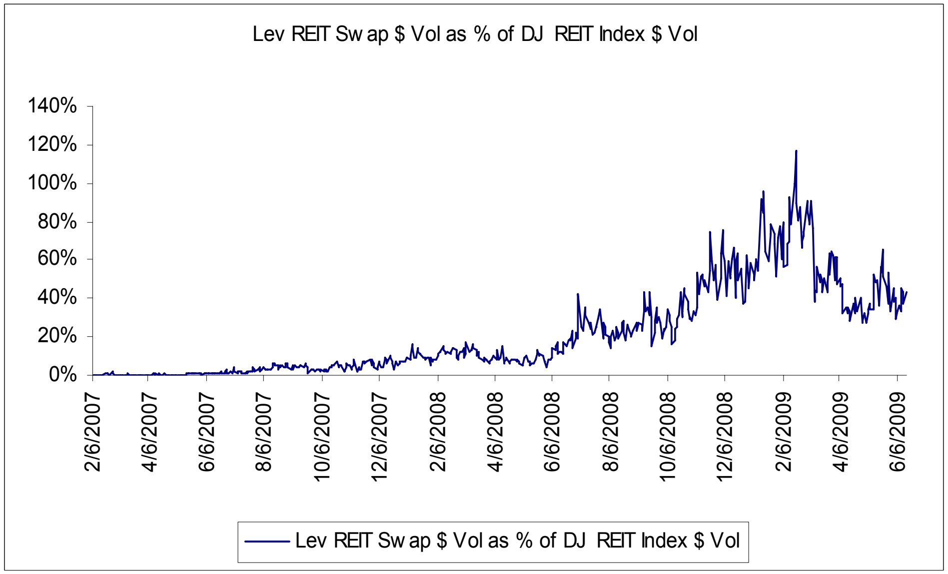
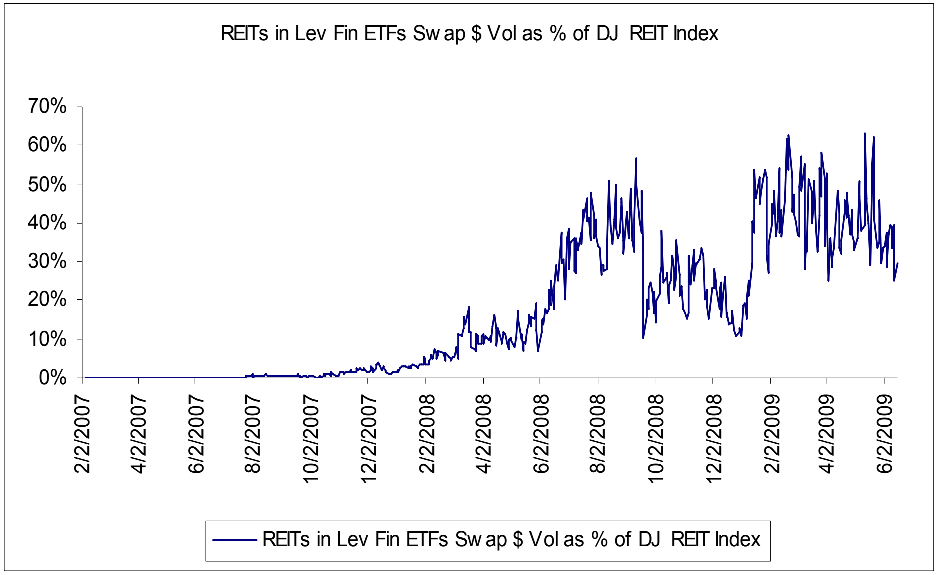
Leveraged ETF components of REIT trading volume



Data as of 06/15/09. Source: EII Estimates



Data as of 06/15/09. Source: EII Estimates

We estimate that leveraged REIT ETFs account for 40% - 80% of the notional $ volume of REITs.

We estimate that the REITs component of leveraged Financial ETFs account for 60% - 80% of the notional $ volume of REITs.

The volume impact of leveraged ETFs on REITs is magnified by their 2X or 3X leverage in this analysis

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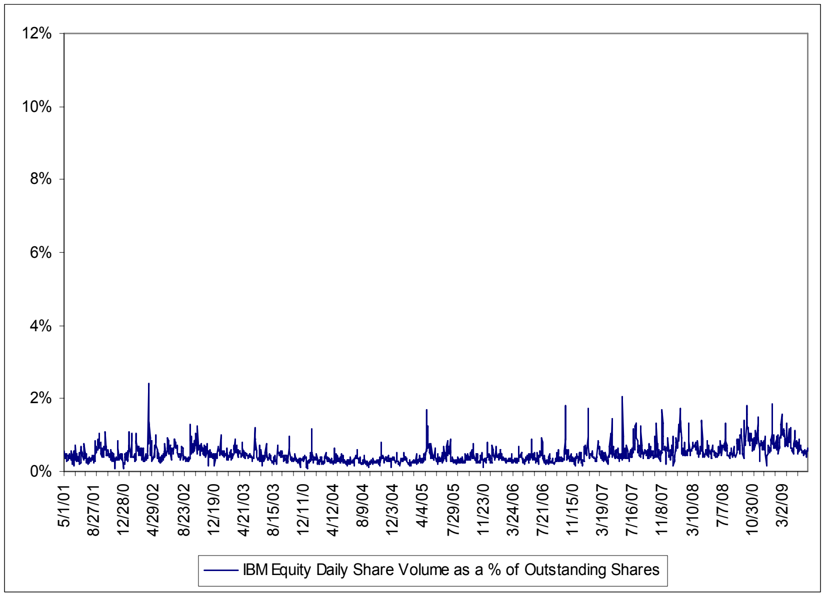
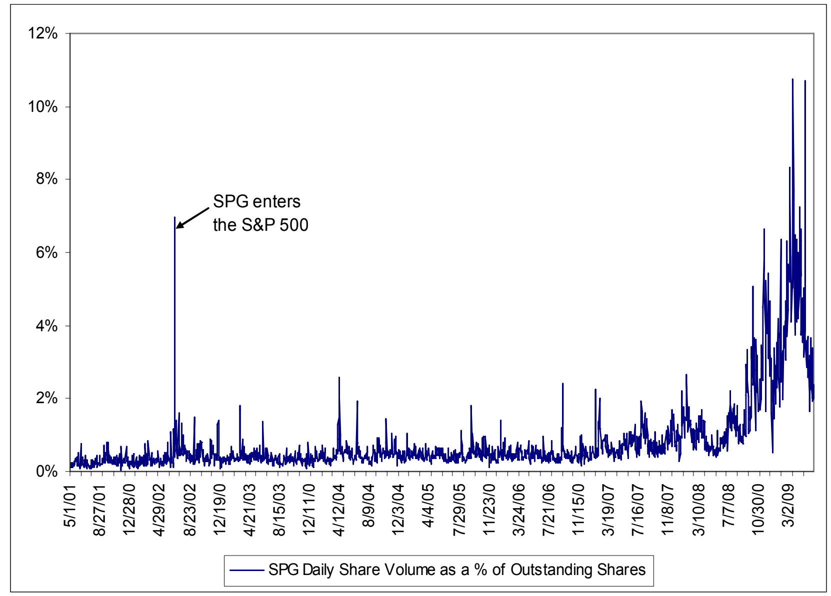
IBM vs. SPG Daily Share Volume as % of Outstanding Shares



Source: Bloomberg & EII Estimates



Source: Bloomberg & EII Estimates

Relative to shares outstanding, the trading volume of a large cap REIT (Simon Property Group) has risen to 10x the volume of a large cap industrial company (IBM) coincident with the growth in ETFs.

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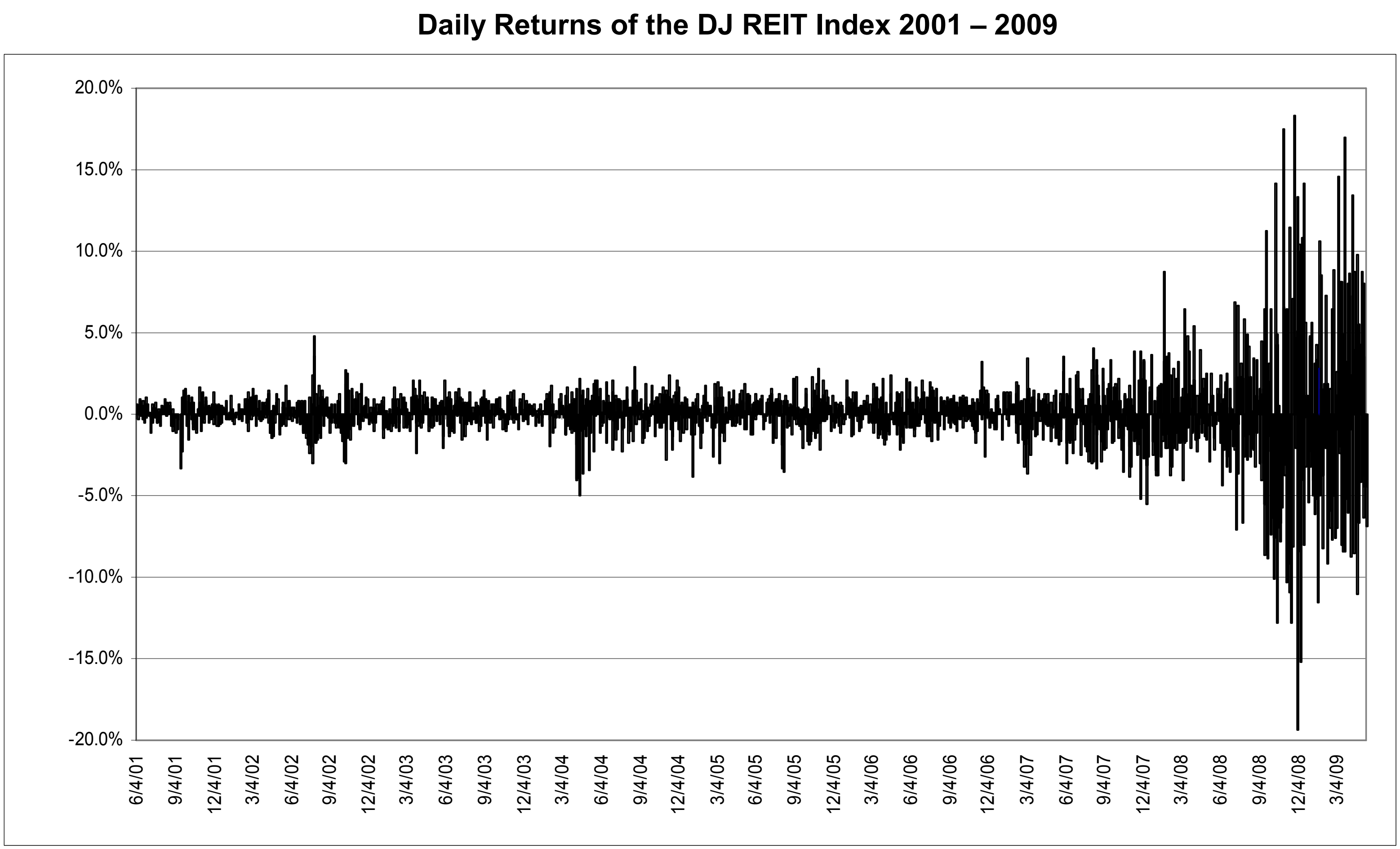
Impact of ETFs on REITs: Volatility



Source: Bloomberg & EII Estimates

ETF impact on REIT volatility is analogous to an earthquake on a seismographic or a heart attack on an electrocardiogram.

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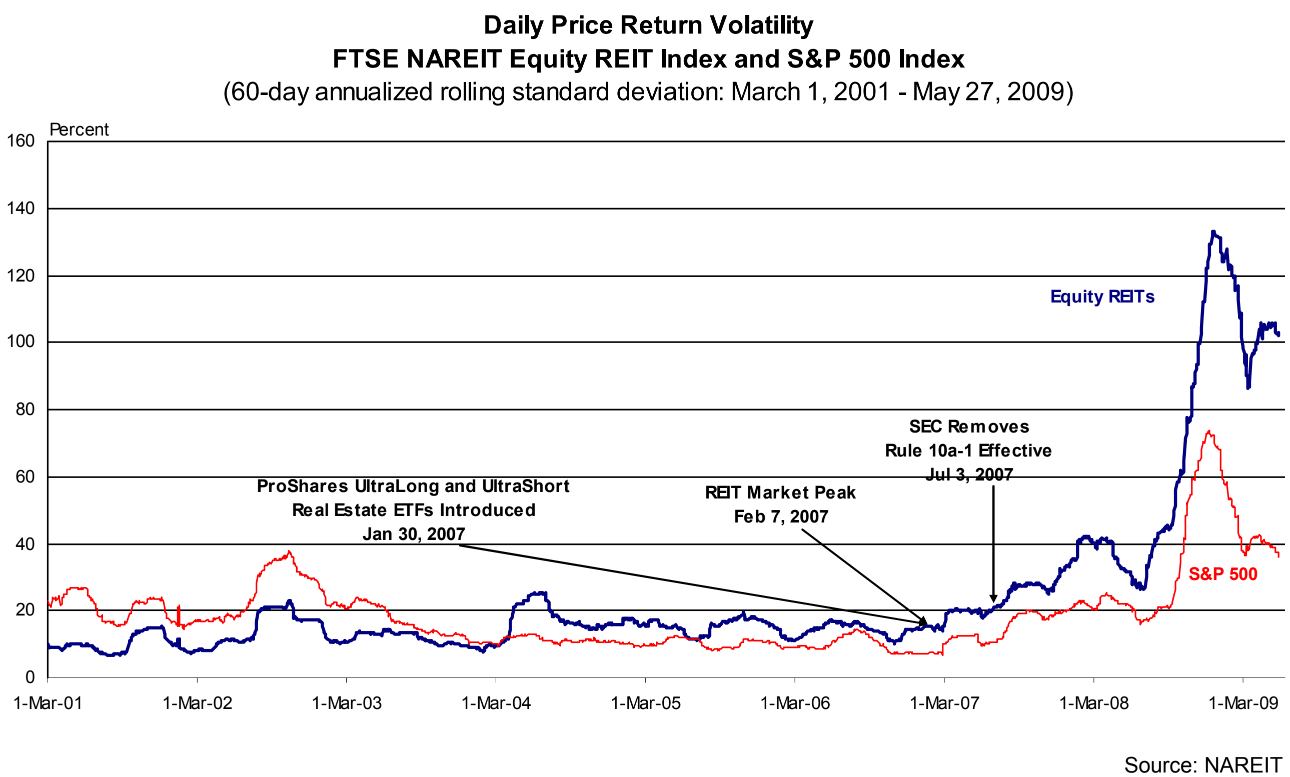
Absolute volatility of REITs has risen over 10x.



The volatility of all stocks has tripled in part due to the demise of the uptick rule. The impact on REITs is further accentuated by the dominance of ETFs.

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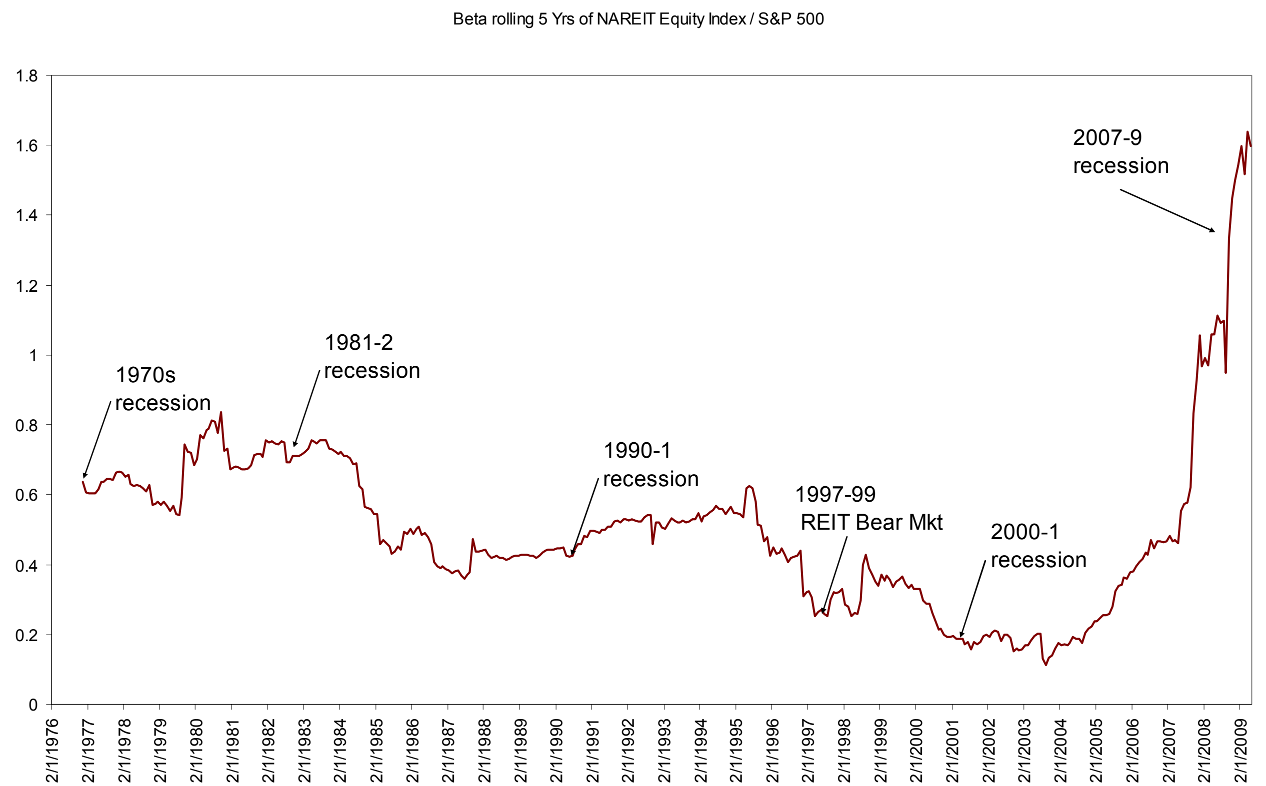
Beta rolling 5 Yrs of NAREIT Equity Index / S&P 500 1976 – 2009



Source: EII Estimates

The Beta (relative volatility of REITs) has been stable or declining for over 30 years through 5 recessions and/or REIT bear markets but it has more than tripled in this recession What is different this cycle compared to previous ones: The Demise of the uptick rule & the rise of ETFs!

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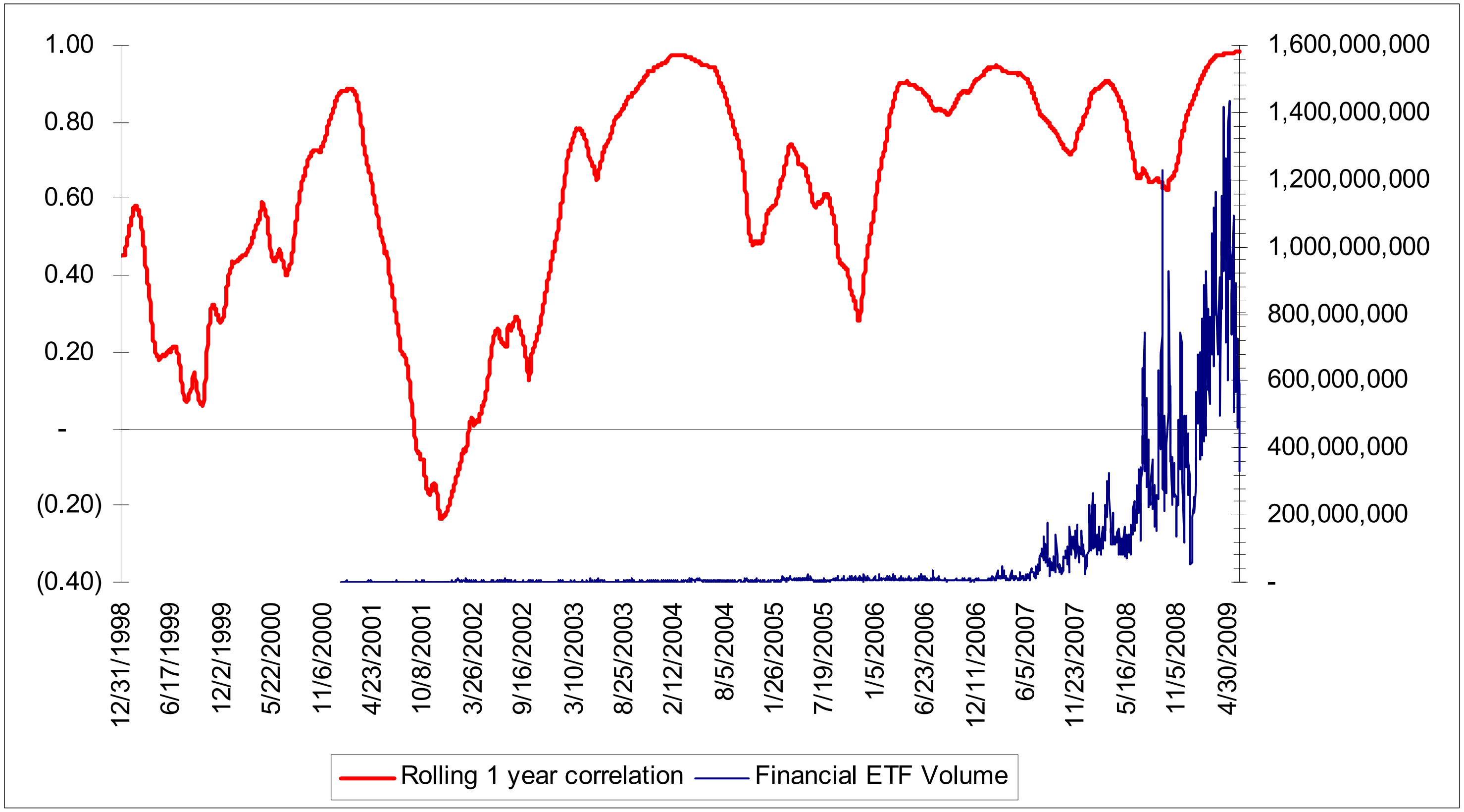
Impact of ETFs on REITs: Converging Correlation REIT vs. Financials



Source: Bloomberg & EII Estimates

Note: Financial ETF Volumes counts the daily traded shares of XLF, IYF, VFH, FAS, FAZ, UYG and SKF since they first started trading.

In the past, the FTSE/NAREIT Index correlation with the S&P Financials Index had varied, but as Financial ETF volumes have grown, the correlation approached 1 to 1.

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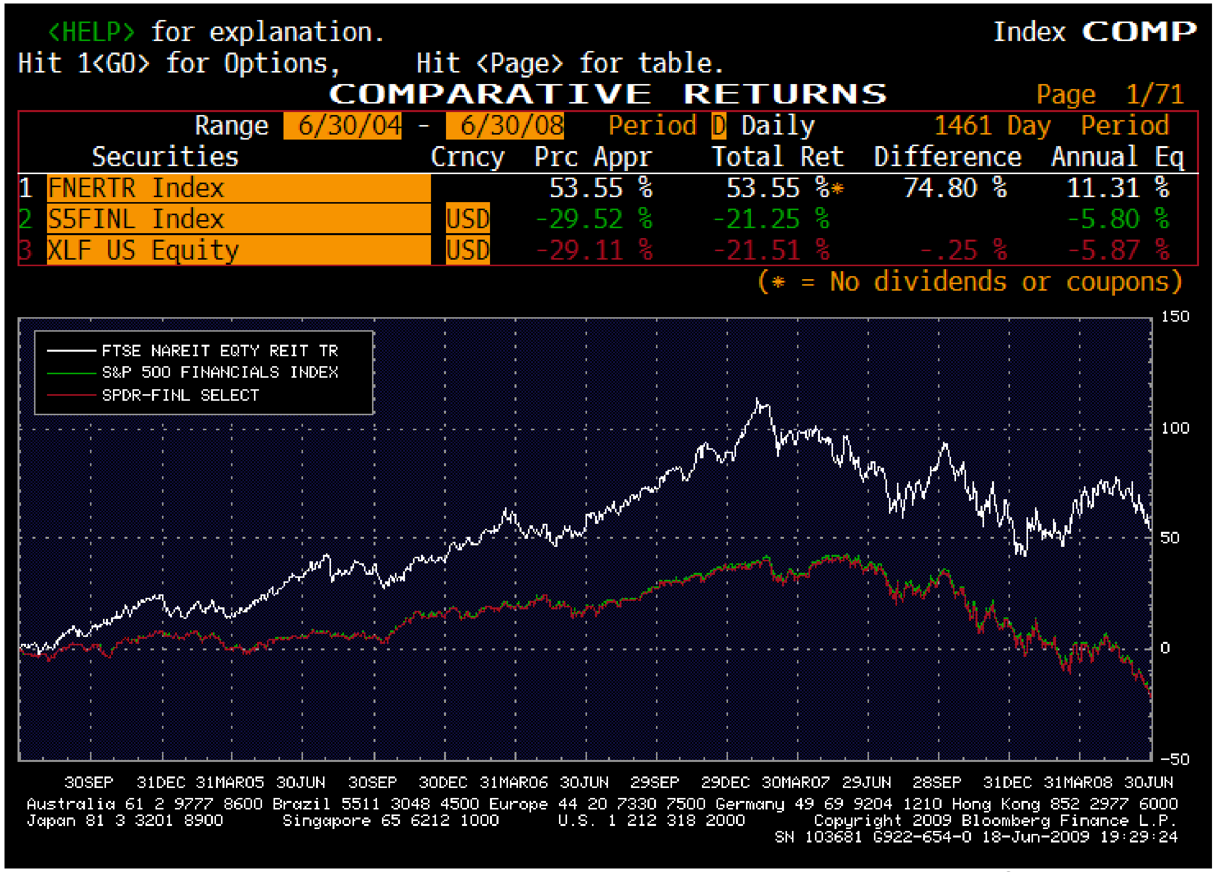
Impact of ETFs: Relative Performance 2004 – 2008



Source: Bloomberg

For the four years through 6/30/2008, REITs outperformed the financials by over 16% a year.

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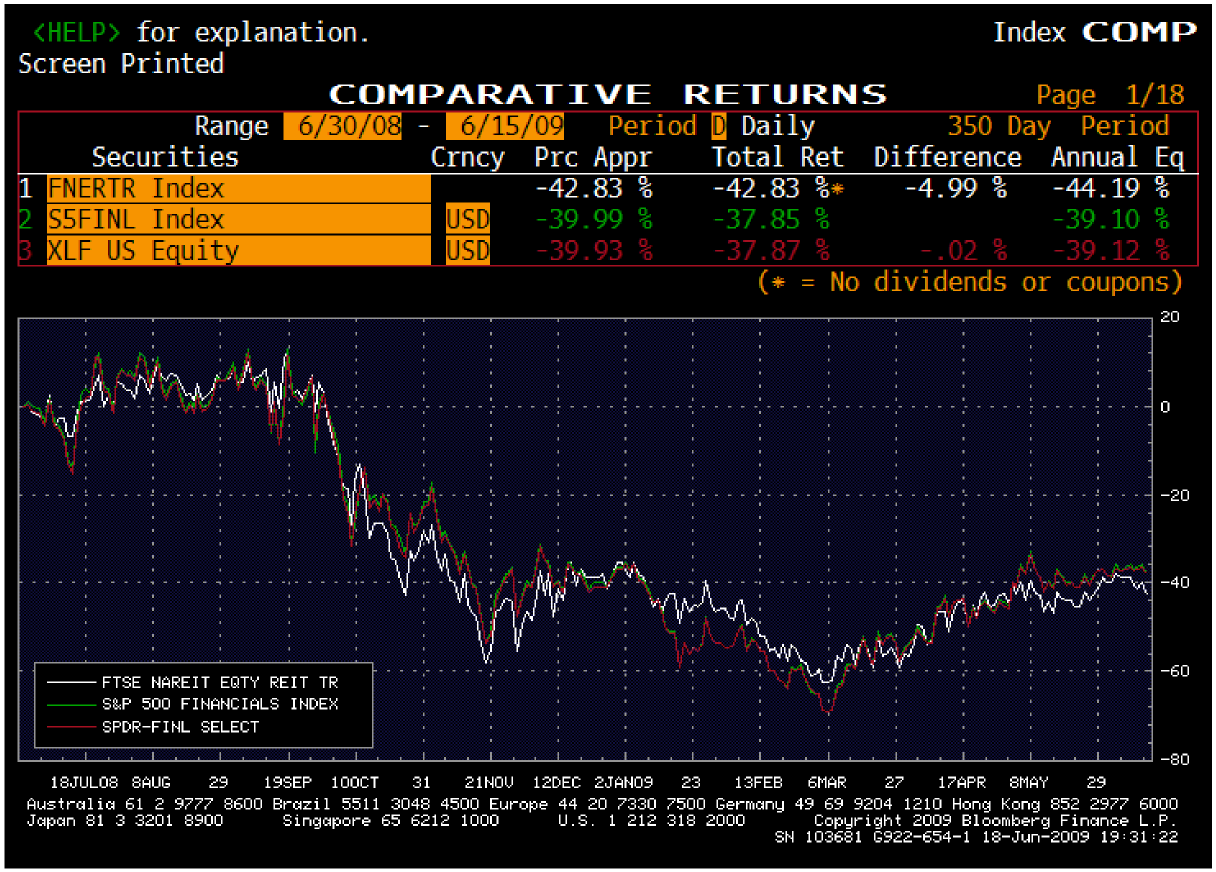
Impact of ETFs: Relative Performance 2008 – 2009



Source: Bloomberg

With the soaring volume of REIT-holding financial ETFs, performance has compressed to within 5% of the financials.

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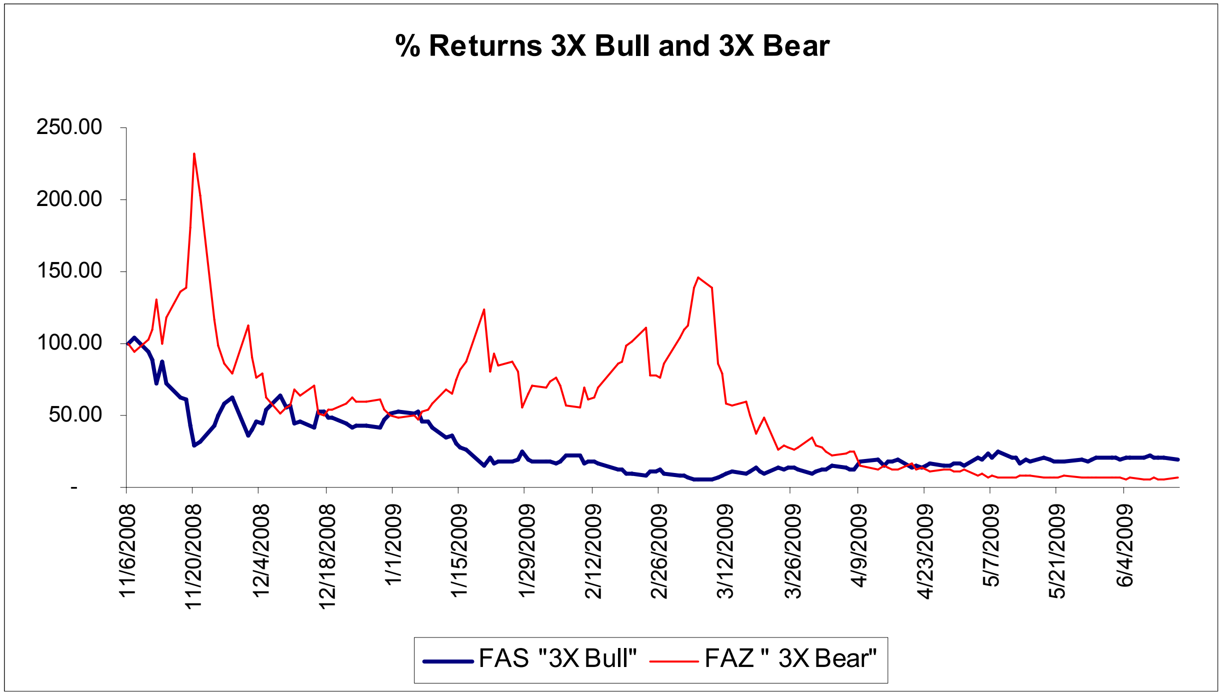
Leveraged ETFs are decaying assets analogous to puts and calls

3X Financial ETFs – Returns since November



Source: EII Estimates

- The Direxion 3X Bull and Bear Financial ETFs were launched in November 2008

- Direxion indicates that *Direxion Shares ETFs seek daily investment goals and should be used strictly as short term trading vehicles*

- On many occasions, these funds are NOT able tor reproduce the daily + or - 3X returns vs. their underlining index

- By simple arithmetic 3x leveraged ETFs are violations of the 50% margin rules for listed equities

REITs are approximately 9% of 3X levered Financial ETFs.

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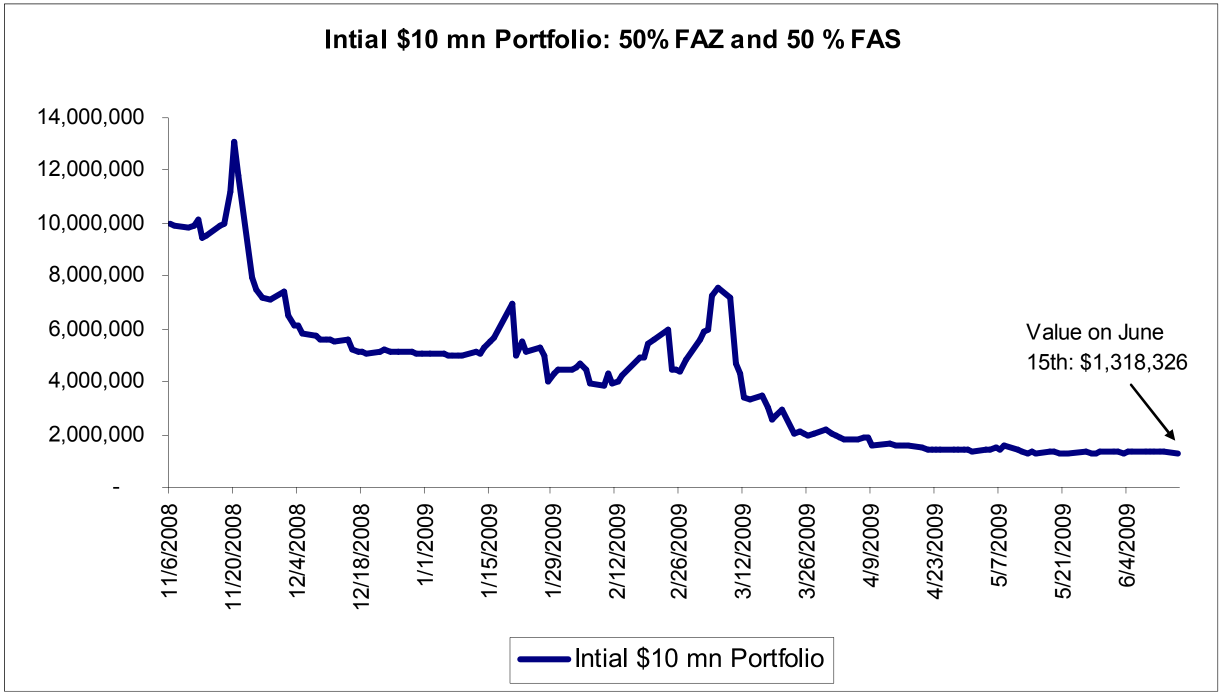
3X Leveraged Financial ETFs – 50%/50% Initial Investment



Source: EII Estimates

Leveraged ETFs are decaying assets: An unadjusted market neutral position has lost 87% of its value

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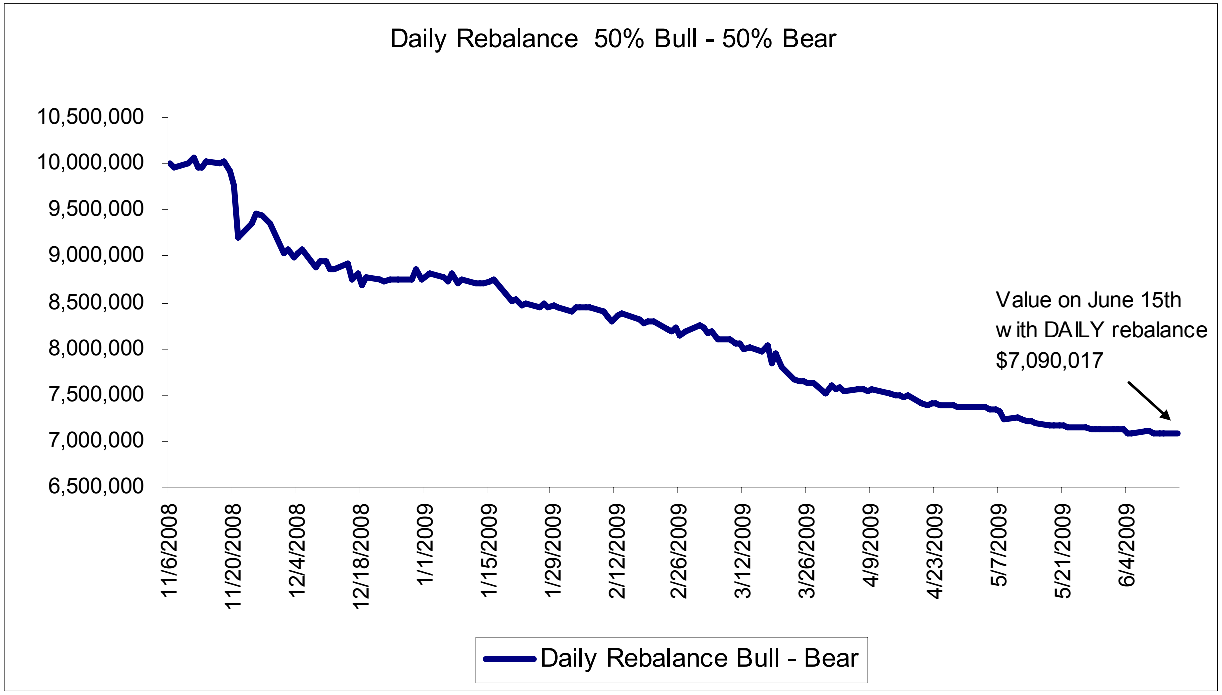
3X Leveraged Financial ETFs – Returns with DAILY rebalancing



Source: EII Estimates

Leveraged ETFs are decaying assets: A portfolio rebalanced to 50/50 on a daily basis has lost 30% since November. This assumes NO transactions costs and a daily rebalance at the reported closing price

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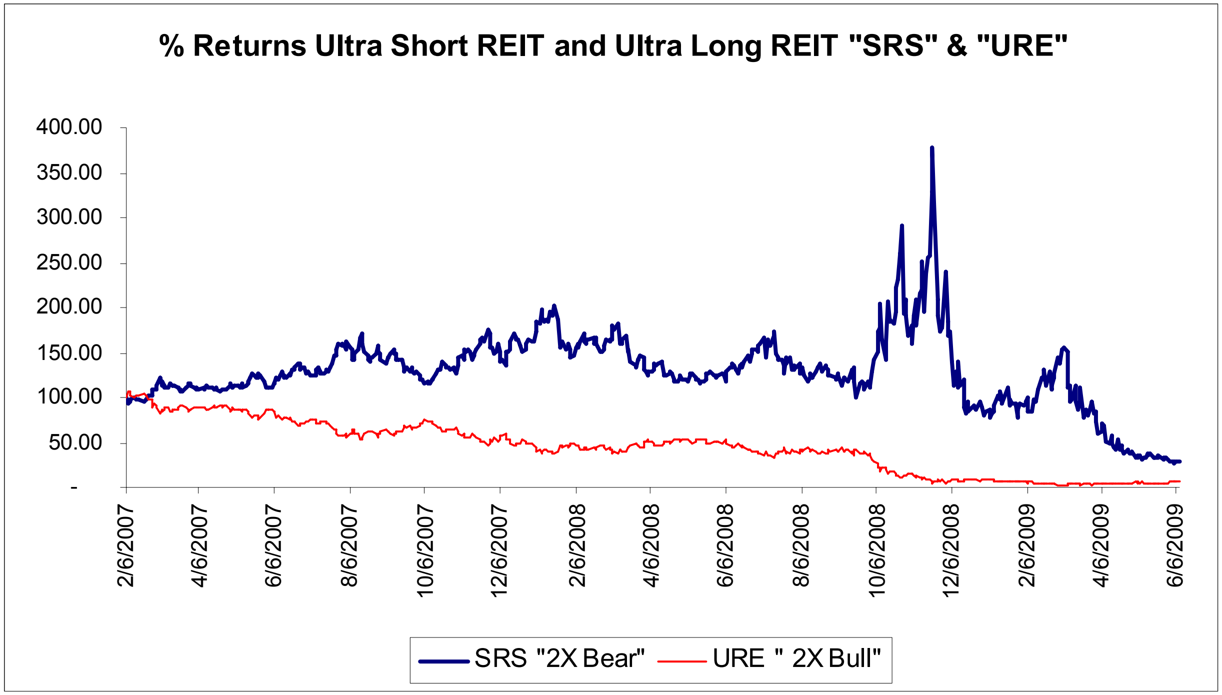
2X Leveraged REIT ETFs Returns 2007 – 2009



Source: EII Estimates

- The ProShares Ultra Long and Short Real Estate Financial ETFs were launched in February 2007

- ProShares Ultra Real Estate seeks daily investment results, before fees and expenses, that correspond to twice (200%) the daily performance of the Dow Jones U.S. Real Estate Index[SM]

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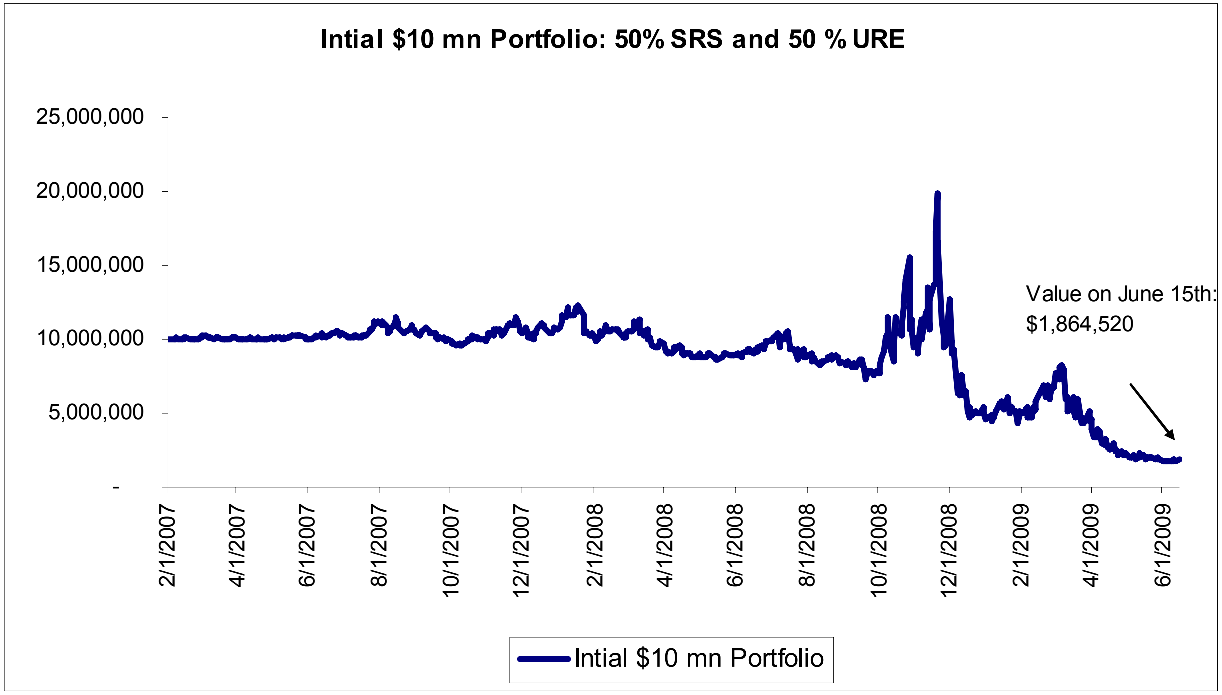
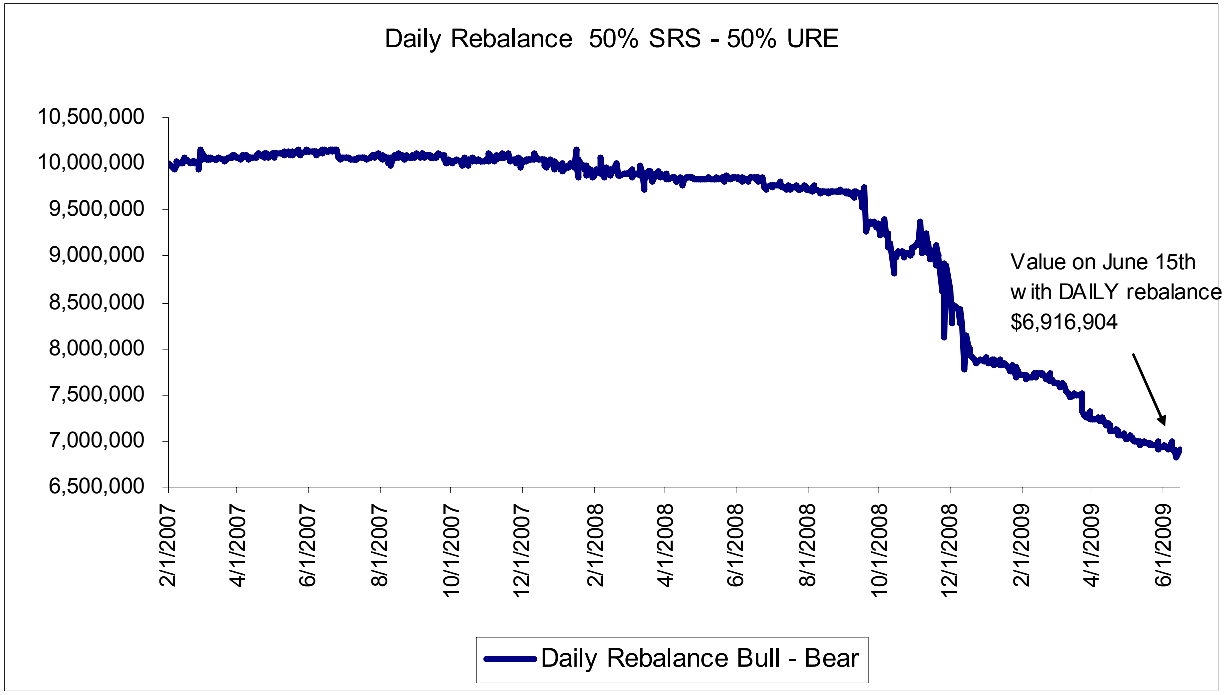
2X Leveraged REIT ETFs Returns – 50%/50% Initial Investment



Source: EII Estimates

Leveraged ETFs are decaying assets: An unadjusted market neutral position has lost 82% of its value.

2X Leveraged REIT ETFs Returns with DAILY rebalancing



Source: EII Estimates

Leveraged ETFs are decaying assets: A portfolio rebalanced to 50/50 on a daily basis has lost 30% over the past two years. This assumes NO transactions costs and a daily rebalance at the reported closing price.

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