

4/5/2022

Ms. Vanessa Countryman  
Secretary  
US Securities and Exchange Commission  
100 F Street NE  
Washington DC 20549-1090  
**VIA EMAIL**

**RE: S7-08-22, Short Position and Short Activity Reporting by Institutional Investment Managers**

**Ms. Countryman,**

I'm writing on behalf of Modern Networks IR LLC (trade name ModernIR) in response to the Commission's request for comments on its published proposal to regulate monthly short-sale reporting under Securities Act section 13(f)(2), added by the Dodd-Frank legislation in 2010.

ModernIR is the investor-relations profession's market-structure experts and the largest provider of quantitative data on the behavior of money behind issuer prices and volume.

First, I'm stunned that the Commission would conclude that publishing aggregate anonymous monthly data by issuer reflects the interests of issuers, the foundational market constituency. Without public companies, there is no public market. You're inviting mob short-selling behavior.

The Securities Acts expressly prohibit discrimination against issuers, by name. For 78 years since the Securities Act of 1934 implemented disclosure requirements, public companies have been under relentless regulatory assault. No constituency has been so disproportionately burdened by compliance costs.

Yet at the same time, the markets have gone wholly electronic, over 95% algorithmic (data gathered from market participants), have become festooned with volume disconnected from cash-settlement and driven principally by continuously changing prices – things in many ways antithetical to the stated purpose of the public equity market, which is to form capital.

Now the Commission has effectively proposed a way for a short-selling mob to set upon issuers. Why disclose ANONYMOUS data on short sales but cluster it by issuer? What's the transparency benefit?

Put a name on it.

Form 13f disclosures list the names of institutions (which is a 1975 standard unchanged and unamended since, save that the issuer community in the last year beat back a serious assault on this sole disclosure vehicle providing some modest insight into who owns shares).

Why call this rule 13f-2 if it's anonymous? Why pass it at all? It doesn't reflect the purpose of the law.

Speaking of which, the Dodd-Frank Wall Street Reform and Consumer Protection Act instructed the Commission to study the costs and benefits of *realtime* disclosure of short-sale data. Under footnote 48 in the final rule, there's a reference to such a study. But what were the results? Were they shared?

That the Commission shifted from realtime short-sale data to monthly anonymized data I suppose reflects the lobbying power of the trading and investing communities. But the Commission must follow the law.

And the law expressly prohibits discriminating against issuers. This rule discriminates against issuers. Yes, it advances the Commission's possession of confidential market data. But that's contrary to the purpose of the law, which is to enhance transparency of the public equity market.

The Commission as an executive-branch agency is to faithfully execute the laws. It should reject rulemaking that advances its own power at the expense of transparency and fair treatment for all market constituents.

Second, the Commission should level with the public about the short-sale exemption for market-makers. Reg SHO Rule 203(b)(2) requires compliance with short-locate rules, but market-makers sustaining the continuous auction in the US stock market are exempt from having to locate stock to borrow.

Meme stocks are a direct byproduct of this exemption. And it makes short-selling very dangerous.

Shares are created by market-makers to facilitate largescale buying and selling when few underlying owned shares are available for either purpose. While the proposed Rule 13f-2 requires a new "buy-to-cover" (as Dodd-Frank specified) tag on orders, it permits market-makers to exempt trades from that disclosure.

The truth is, the US equity market cannot function without fake shares – market-maker exempt trading with digital equity. The public has a right to know, so it can make informed trading decisions. Markets exist for public companies and investors, not for the Commission and short-term traders.

Publish the names of the firms shorting stocks. Stop exempting market-makers from short-locate rules. If the stock market cannot function without artifice, it's a bad market. The public and issuers deserve to know.

Last, consider the cognitive dissonance here. We'd have a 1975 shareholder-disclosure with names via Form 13f, and a monthly anonymized mob-rule measure of shorting with Form 13f-2.

I can only shake my head. Do not approve this rule as constructed. It benefits no one but short-sellers, which will have a roadmap for piling onto issuers.

Yours Sincerely,

A handwritten signature in black ink, appearing to read "Tim Quast", written in a cursive style.

Tim Quast  
President and founder