October 20, 2022

Via Email To

Vanessa A. Countryman
Secretary
U.S. Securities and Exchange Commission
100 F Street, N.E.
Washington, D.C. 205499–1090
rule-comments@sec.gov

Re: Release No. 34–94313; File No. S7–08–22 Short Position and Short Activity Reporting by Institutional Investment Managers

Secratary Countryman:

The lack of transparency into short positions has led to deep mistrust in markets for retail investors.. As a "Millenial," with decades of financial investment opportunity ahead of me, I speak for myself and many others I know who are about to remove all money and never place another penny in any US institutional financial market if we do not see seismic market regulatory reform and transparency. The proposed rule on short position disclosures is one of few initial baby steps in this direction and does not currently go nearly far enough for our confidences.

I fully support the Commission in establishing this rule, and urge the Commission to go further with these short position disclosures.

The feedback from the industry is focused on disguising short selling activity and reducing transparency. This is antithetical to the Commission's objectives with the Proposal. Investors, both retail and institutional, cannot properly exercise their right to choose investments, counter-parties and other relationships without visibility into the firms that they are investing in or doing business with. An appropriate level of transparency is absolutely required to empower investors to act in their own best interests in an informed manner.

The Proposal also, as currently crafted, has a huge hole that must be remedied, one that the Commission is well aware of - "an investor wishing to profit from the decline of a security's value can also trade in various derivative contracts, including options and security-based swaps." The failure to include derivative exposure in this rule will inevitably result in firms exploiting the loophole and will drive more and more firms into the less regulated and less transparent space of derivatives. Derivatives have an impact on the market, and can have a detrimental effect on the price of stocks.

it is critical for institutional broker-dealers and for retail and institutional investors to understand the extent to which individual firms have high levels of short exposure to individual stocks or ETFs, regardless of whether that exposure is via equity, through the use of derivatives or through other novel mechanisms that the Commission has not considered. Markets are changing and evolving, and as regulators impose new disclosure requirements on firms, those firms will figure out ways to game or avoid those disclosures. If one of the primary goals that the Commission is seeking to achieve with the Proposal is to give retail and institutional investors, along with regulators, better visibility into economic short exposure, it is imperative that all short exposure is included.

Finally, the current proposal for categorizing a position as not hedged, partially hedged or fully hedged could lead to serious problems and misrepresentations of actual economic short exposure, which is the first shortcoming identified by the Commission. Aggregated information could actually end up being very misleading, by painting an inaccurate picture of the size of short positions despite the "hedging" distribution disclosure. "Partial" hedging could be manipulated or abused to mask true short positions (e.g., by hedging an immaterial portion of the position to flag it as "partially hedged"), and overall gross position disclosures could overstate short positions when net positions are not accounted for. A better solution would be to have the actual amount of position hedged, which could range from 0% to 100%+ if the manager's long position is larger than the manager's short position. This is similar to one of the alternatives proposed by the Commission, to report the delta value of hedged positions. This would be a critically important addition to the Proposal and make it far more informative if aggregation is the direction the Commission goes.

Tin conclusion, the quote, "If the penalty for a crime is a fine, then that law (or rule) only exists for the lower class" sums of the sentiment of the average retail investor. There cannot be the dichotomy of regulated and unregulated market activity with no consistent accountability and transparency across the board if the SEC wants anyone from my generation and upcoming generations to have any faith in the markets and to participate therein. The lack of visibility into the inner workings around short selling being a primary driver of this exclusionary dynamic. The lack of transparency around short positions, the inability to adequately quantify short interest, and the ability for firms to skirt regulation through derivative positions such as options and security-based swaps are making a mockery of our free and open markets. Please continue to make ground with accountability and transparency through this rule and the many needed rules to come. Thank you for your time and consideration.

Sincerely,

Daniel Weiskopf
Retail Investor, US Citizen