October 30, 2022

By Email

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

Ms. Countryman:

I am a retail investor who has grown very concerned with the current state of our markets. When I earned my MBA in 2008, I was impressed with everything I learned about our efficient and fair markets. When retail investors were blocked from buying stock in 2021, I became suspicious that something unethical was taking place. I've spent the past 2 years becoming more educated on the infrastructure (plumbing) of our markets and how this might be manipulated.

A short sale is one of the riskiest investments. When used as a hedge, it makes sense in some portfolios, but as an "investment" it never makes sense. There's no way a single investor can know more than the millions of sophisticated investors in a fair and efficient market. The current price is always the best indicator of the true value of a company.

The people who short a stock do so against the best advice that is available. While the whole world believes the current price is correct and that the price will increase in the future, short sellers take the opposite side of this. Just holding a short position should lose 8%-12% per year plus fees. For this reason, a short position is rarely a sensible investment.

The fact that the short interest of some stocks reached levels above 100% and with GameStop reaching above 140% seems incredibly suspicious. Even worse, to reach levels above 100% is likely that a broker-dealer loaned my shares, without my expressed permission, to someone who sought to drive the value of my investment lower. I would never knowingly allow this.

I believe my shares should never be loaned in any circumstances without my expressed consent. And, if asked for my consent, I would say "NO." Why would I let my retirement investment be used by people who seek to profit off of the failure of a company I own. I would want to hold my shares, increasing the cost to borrow for short sellers. Or, if I loaned my shares, I would charge a 15%-20% fee to borrow. Today we have broker/dealers loaning 100% of shares of companies I own at fees below 1%. This should never happen in a fair and orderly market.

If a broker/dealer wishes to loan my shares, I should be given the opportunity to approve or deny this transaction for both for my share (ownership in the company) and for my voting rights in the company. Allowing rehypothecation of shares, removing the voting rights of multiple shareholders without their knowledge or consent, goes against the idea of fair and orderly markets. The fact that this permission is in the T&C of a broker/dealer is not enough when this transaction is being used to diminish the value of a company I own.

I believe there are some very questionable practices around short selling occurring today. I hope the events of these past 2 years shed some light on this and help to bring about change. I believe the first step towards positive change is having data on the short selling market so we can see if these trades are being made as part of a hedging strategy or if it is market manipulation. And to accomplish this, we need regular short activity reporting.

So I am writing today to express my support for Release No. 34–94313; File No. S7–08–22 Short Position and Short Activity Reporting by Institutional Investment Managers

Sincerely,

Brendan Casey
Retail Investor