

SUE W. KELLY
19TH DISTRICT, NEW YORK

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ASSISTANT MAJORITY WHIP

The Honorable Chris Cox
Chairman
Securities and Exchange Commission
Washington, DC

Dear Chairman Cox:

I am writing to express my concern with the impact that abusive naked short selling could have on our capital markets and shareholders of public companies. I believe naked shorting not only unfairly dilutes shareholders equity, but it does real damage to the right of shareholders to have their votes counted in corporate elections. I am pleased that the Commission has proposed amending Regulation SHO. However, I believe these changes are only the first steps toward reducing persistent fails to deliver and other associated abuses. Other changes the Commission should consider adopting include:

First, I recommend adopting Commissioner Atkins' proposal that aggregate fail data should be disclosed. Without full disclosure, it is difficult to know the full amount of "naked shorting". More transparency will lead to the elimination of abuses and to more investor confidence and security. I suggest that the Commission amend Regulation SHO so that the volume of failures to deliver are reported daily for each threshold security listed by each SRO.

Second, to further curb the potential for market manipulation and protect investors, I believe that the requirements for conducting a "locate" on a short sell be more effectively defined and enforced. While 99 percent of participants in the markets are honest and diligent representatives of their clients and the best examples of America's financial leadership, the process of locating a stock to be shorted must rely on transparent and verifiable standards rather than the unlimited discretion of a potentially illicit trader.

If a provision were added to Regulation SHO eliminating the "reasonable grounds to believe" loophole, this problem would diminish.

It is imperative that we strive to protect our investors and public companies by minimizing the manipulation of our capital markets. I appreciate your willingness to hear these comments and your commitment to protecting America's investors and the principles of shareholder democracy. I look forward to working with you to improving our capital markets.

Sincerely,


Sue Kelly
Member of Congress

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CHAIRMAN'S
CORRESPONDENCE UNIT
Washington, DC 20515-3219

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- PLEASE REPLY TO:
- 2182 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515
(202) 225-5441
 - 21 OLD MAIN STREET, ROOM #107
FISHKILL, NEW YORK 12524
(845) 897-5200
 - ORANGE COUNTY GOVERNMENT CENTER
255 MAIN STREET, 3RD FLOOR
GOSHEN, NEW YORK 10924
(845) 291-4100
 - 2025 CROMPOND ROAD
YORKTOWN HEIGHTS, NEW YORK 10598
(914) 962-0761