

Arguments posited by entities claiming their outsized returns would be affected by implementation of timely short sale data should be disregarded:

Such entities presenting this argument already benefit from:

- a. Lower latency due to direct fiber routes and server co-locations
- b. Order-flow, and by extension, the short sale data we want published
- c. Infinite liquidity due to DTCC
- d. The most talented technologists and the algorithms they employ
- e. Expert markets in which only they can participate
- f. Insider information
- g. Relationships with other wall street entities
- h. Affiliations with congress
- i. Revolving door with regulatory entities
- j. Self-regulation
- k. Ability to mismark trades
- l. Ability to operate illegally and pay fines significantly less than profits
- m. Ability to arbitrarily avoid or reduce margin calls

This list is not exhaustive and is so long that these entities will continue to have an unfair advantage long after this proposal passes. If their ability to create market-beating returns hinges strictly on hoarding short sale data, then the criticality of this information becomes even more apparent.

Arguments posited by entities concerned about the proposals failure to name specific transaction types:

I submit that we keep things simple and start with “all” transactions. If two or more parties are involved in a transaction involving a publicly traded company’s security, or derivative of such security, or any contract representing such securities or derivatives, it should be logged and made publicly available instantly. Not in 15-minute intervals, not aggregated and summarized. Transaction by transaction. If I want data summarized, I can do that myself in any fashion I choose. We must get to the point where movements in the market can be explained in detail, not by the media, not by a self-governing entity, but by anyone who wishes to investigate. The only way to do that, is to see transaction by transaction data. However, if a compromise must be made, then 15 minutes is better than what we have today and will be accepted in the short term.

Arguments posited by entities concerned about the increased cost associated with establishing short positions:

Given the extreme level of executive base pay, bonuses, fees charged to pension funds, as well as their outsized returns they brag about, it's quite apparent that a slight rise in costs could easily be absorbed by those affected. Furthermore, the majority of retail doesn't enter into short positions. The ones that do can certainly afford a meager trade cost – we’re not

concerned with maintaining the illusion of “free trades.” Thus, the costs of establishing such positions will ultimately be borne by those who currently benefit from the incredible lack of transparency involved with such positions. For example, hedge funds often use pension funds to enter a short position for the purpose of share lending and making returns from interest on the borrow. Aside from the fact that teacher’s retirement money should not be used to engage in speculative short selling in the first place, (see: Ken Griffens comments in Bloomberg interview regarding retail “hurting” teacher pension funds when Melvin fell), it is ultimately these funds and the hedge funds managing their money who will pay any increase in costs. So be it.

Arguments posited by entities concerned with increased copycatting of investment and trading strategies:

If a hedge fund enters a short position on a security, it has done so in expectation that prices will fall. For prices to fall, one *needs* others to enter similar positions. Thus, it is common for wall street entities to publish their research to convince others to trade similarly. This is achieved by paying bloggers and financial market authors as well as mainstream media pundits like Jim Cramer to promote negative sentiment. The entire short thesis requires copycatting. However, it is even more important to understand the *source* of the shares being lent in the first place in order to ensure a proper locate was performed and the position itself is legal. This is precisely why the share lending data must be made public.

Arguments posited by entities concerned with disincentivizing “fundamental research:”

To the extent that fundamental research is even still valuable in today’s highly corrupt, algorithmic and media-controlled markets, it will continue to be valuable by allowing for such entities to be first, or early. If the availability of short lending data makes a position non-viable, then the position itself was not, in fact, based on fundamental research. If the fundamental research was in fact valid and true, then the position itself would become profitable as other traders take similar positions.

I suspect that the concern is really about entities abilities to manipulate borrow rates and hiding methods of synthetic share creation through rehypothecation.

Arguments posited by entities concerned about the impairment of price discovery if short sale / lending data was made public:

First, price discovery simply doesn’t exist any longer. A recent example of this was Ryan Cohens significant purchase of Bed Bath and Beyond. Ryan Cohen made this purchase many months before his 13-D/F filing was published. Prior to publication of his 13-D/F, BBBY fell in price consistently. There was no upward movement at all resulting from his purchase. However, the day his 13 D/F was published and widely disseminated, the shares skyrocketed. We also know that retail trades often do not affect lit market prices due to odd-lot rules so a short squeeze is rarely, if ever, primarily caused by retail as most retail investors cannot afford share counts in even lots of 100.

It is therefore undeniable that the media, and ultimately entities controlling the media, have *exclusive* ability to set prices. This phenomenon was also observed just prior the GameStop run

in January '21. In that instance, the significant purchase of shares by multiple entities such as Michael Burry, Ryan Cohen, and others, had little to no effect on the price until such positions were exposed and disseminated in the public domain.

Thus, we must conclude that price discovery arguments are futile. We must also conclude that price discovery will only occur when true and timely information about *real* liquidity is accessible equally by all market participants.

Market participants capable of digesting the data as quickly as possible will continue to have an edge against those who do not or cannot.

Arguments posited by entities concerned about liquidity and market efficiency being negatively impacted by this proposal:

Due to unrestricted rehypothecation, mismarking of trades, FTDs, and the market maker exemption, liquidity is currently infinite. Based on my personal observations, the only current limitation on liquidity is simply the *rate* at which synthetic shares can be created which is strictly a function of how many clients hedge funds can convince to purchase for the sole purpose of *re-lending* shares. And that's only required if they're acting legally. This is why we see entities like the Florida Teacher Retirement Fund purchasing substantial shares of GameStop.

Furthermore, market makers engaging in the buying and selling of options as well as shares are legally allowed to naked short any given security, and those naked shorts can be "covered" and rolled into new positions as often as is necessary to avoid failure-to-delivers.

Finally, ETF creation and redemption processed are routinely abused and used to cover FTDs. Evidence of such abuse is ever present in XRT, an ETF containing many of the "meme stocks." This single ETF was over 700% short for many consecutive months, and was over 1000% short for weeks.

All of this points to abuse of "liquidity" as if liquidity should be infinite. Apparently, the total number of shares outstanding creates no ceiling on the number of share holders / lenders. It's meaningless. With infinite liquidity, there is no market efficiency.

Short sales should be limited to those who are directly registered. This would ensure that only one level of lending occurs. If you are not the true owner of a security, you simply cannot lend it out. This would bring it in line with every other tangible asset.

Short of implementing such a regulation, share lending data but one way by which we can regulate the number of shares present in the market and ensure we are not creating "infinite liquidity."

Arguments posited by entities concerned about their ability to continue delivering "risk-adjusted returns" for their investors if this proposal passes:

Perhaps so, and by design. Entities who rely substantially on opaque share lending data are inevitably engaging in practices that equate to market manipulation. In fact, any entity arguing that "fundamental research" underpins their investment decisions cannot also argue that the availability of short sale and lending data would suppress that. Either you're making money by

finding opportunities other haven't found, or you're making money by "creating" those opportunities by injecting infinite liquidity, which results in share dilution and price decline.

Arguments posited by entities concerned about costs outweighing benefits:

It is frequently the case that the value of a data set is unknown until such time it is made available and able to be utilized. To that end, it is not possible for any market participant to opine on the value a data set has to another participant. In fact, this argument is proven by the fact that Citadel, as one example, is strongly against publication of this data. Not because they don't *have it*, otherwise *that* would be their primary argument. They *do* have it, but do not want to publicize it. Thus, along with ALL their other arguments against publicizing, we can conclude that the value of this data being private is immensely valuable to them.

I would also argue that this data will contribute to the ability for the investment community, including retail, to help monitor and enforce market rules. It will also contribute to helping understand movements in the market, insight that is noticeably missing today.

Arguments posited by entities concerned about the SEC's authority to pass such proposals:

To the extent this is true, it is Wall Street's own doing considering the SEC is a self-regulatory body. It simply means they haven't granted themselves the authority to do so.

That said, this argument seems like a last resort. If all other arguments fail, then we'll just sue and claim you don't have the authority. This is akin to picking out grammar mistakes in a persuasive essay when the reader is unable to find a flaw in the argument itself.

It's just childish.

In conclusion, the bottom line is that if any investor wants to understand why the market behaves a certain way in a certain time period, we ought to be able to ascertain the true reason. This can only occur when all available data is made public. Only then will any semblance of "informed investing" be possible. This is ironic given the SEC's recent endeavor into mocking retail investors having done little research into their investment decision. While that may often be true, I would argue that in most cases, the only research we can reasonably perform is reading mainstream media, which is often outright misleading.

Let's do the entire market a favor and democratize the data, help crowd source monitoring and make true, real research possible.