

October 8th, 2022

Vanessa Countryman, Secretary
Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549-0609

Re: Reporting of Securities Loans (File No. S7-18-21)

Dear Secretary Countryman:

I am writing in strong support of rule 10c-1, "Reporting of Securities Loans". A review of the comments made by hedge funds, banks, and affiliated financial entities raises concerns about how the Commission might be unduly encouraged to deviate from its stated priorities and strategic direction.

The Commission's first priority is the protection of investors. The proposed rule, as written, is a deeply encouraging step toward greater protection for individual investors and working families. Both the 15-minute reporting interval and the transaction-by-transaction reporting requirement are strongly in line with the Commission's stated priorities and purpose, and will provide significant benefits to market functioning and stability. They grant individual investors a capability to assess the risks of any investments they wish to make where currently those risks are kept secret. "We can't make as much profit if we can't operate in secret" is not a compelling argument, yet many funds and firms use it.

The lending of securities for short selling is a practice with theoretical benefits often touted by short sellers themselves. Unfortunately, significant profit incentives represent significant conflicts of interest in any assessment of the effect of short selling on the market.

In the comments the Commission has received from financial entities so far, we see a very consistent focus on "superior returns", protection of profits, worries about proprietary strategies, and concerns about how uncomfortable it is to have to collect and report securities lending data. I am deeply concerned that the Commission will be swayed by this deeply biased lobbying and will prioritize hedge fund comfort and profiteering over the protection of working families and individual investors.

Protection is Proactive, Not Reactive

The Commission's first and foremost stated purpose, echoed regularly by its current Chairman, is the protection of investors. Lending is not investing, but can certainly be used to harm investors.

The Commission, in proposed rule 13f-2, explicitly noted its awareness of the myriad ways in which short selling can be used to abuse individual investors and working families. In proposed rule 13f-2, the Commission said it is

“...mindful of concerns that certain short selling activity can be carried out pursuant to potentially abusive or manipulative schemes. For instance, market manipulators may seek to spread false information about an issuer whose stock they sold short in order to profit from a resulting decline in the stock’s price. The Commission has previously noted various other forms of manipulation that can be advanced by short sellers to illegally manipulate stock prices, such as ‘bear raids.’”

While the Commission tries its best to investigate these abuses and make abused investors whole, this can often happen years after the fact. How are we to survive in the meantime? Does the Commission truly believe that victims are able to bear these often significant financial burdens while they wait years for investigations to conclude? Can the Commission make good on all abuses, or are there holes in the patchwork of regulations? In an ideal world it would, but we don’t live in that world. Investors must be equipped to protect themselves from the preferred tools of predators.

How are individual investors supposed to protect themselves against ‘bear raids’ without timely reporting? How are everyday people supposed to identify which funds are preying on them? More timely reporting allows for more timely reactions; slower reporting prevents retail investors and working families from protecting themselves from abusive and predatory short selling practices. The Commission has stated many times that investors must be afforded the opportunity to accurately assess the risks associated with their investments. Short selling abuses represent a significant risk. 15-minute, transaction-by-transaction reporting arms individual investors to protect themselves and avoid risk they do not wish to take on in a way daily rollups or, worse, weekly summaries would. Short selling occurs quickly and even violently, and investors should be able to see that violence to avoid it.

I say again: the Commission’s stated first priority is *protection*, not *reaction*. Protection is proactive, and transaction-by-transaction reporting allows individual investors greater power to proactively avoid dangerous and excessively risky investments. Protection comes before profiteering.

Excessively lenient reporting rules prevent investors from assessing risk so funds can abuse that ignorance to scrape a little more alpha from their pockets. The regulations, as they stand, force individual investors and working families into the dark so they might be robbed. It doesn’t matter if the police show up months or years later: the damage is done. This financial damage to everyday people who cannot bear the cost creates shockwaves of instability to the peoples around them. The financial damage carries on to the children of wronged investors, and yes, even to the banks and other services the harmed investors patronize. No fund or firm profiting from short selling is going to think about those consequences; their immediate rewards blind them. Protection comes before profiteering.

Working families and individual investors need to be able to look both ways before they cross Wall Street. No one wants working families to get run over in the name of “superior returns for hedge funds. I am certain the Commission wants to avoid the public perception that it is protecting financial predators at the expense of working families. Protection comes before profiteering.

The Cost of Under-Regulated Short Selling

In practice, short selling is often abused and when it is not abused, it can be wrong; a misinterpretation of a company can result in good companies getting run out of business simply because a powerful financial entity or related cartel decided they should. While short sellers might be afraid of ‘short squeezes’ that can follow the identification of their short selling strategy, that is not a reason for the Commission to decide against greater transparency. If short selling is chilled, then short squeezes and dangerous volatility become less common. ‘Sophisticated investors’ will quickly learn to avoid positions that could result in such dangerous volatility, which will clearly benefit the market overall.

Further, under-regulated and under-reported securities lending activity can lead to dangerous chains of obligation that cause massive damage when unraveled. In the comments on this rule so far, I have seen concerns about reverse-engineering of short selling strategies that might lead to short squeezes. Should the rule be enacted as-is, funds and firms would quickly learn to avoid situations where they might be exposed to a ‘short squeeze’. This reduction in dangerous volatility would be a benefit to the market.

The events of Jan 28 2021 shook the entire financial world and almost ended in catastrophe. Greater transparency into securities lending allows market participants to regulate each other and would result in a reduction in harmful situations. If funds and firms cannot take on dangerous levels of risk in secret, they will be far less likely to take on dangerous levels of risk at all. Yes, profits for short selling funds and firms might go down. That is the cost of safer markets. The outsized risks posed by under-regulated securities lending are far, far greater than having to report your lending activity every 15 minutes (especially when trading occurs at subsecond intervals!). No entity should be able to secretly create conditions that threaten the entire market and the nations that facilitate them. The risks associated with reckless securities lending and short selling - highlighted with terrifying clarity following the events of Jan 28 2021, go far beyond any theoretical benefits of secret short selling for “superior returns”. Investor protection comes first.

The same entities that created the conditions of Jan 28 2021 are now advocating against this rule. I hope the Commission will not side with them; their judgment is clearly compromised by significant financial incentives and their practices threaten national stability.

A New Class of Citizen Watchdog

The current Commission administration has placed significant emphasis on the use and expansion of its whistleblower program. Last year, the Commission saw a record number of whistleblower complaints and gave out a shocking volume of whistleblower awards. Some of these awards were given to whistleblowers who identified fraud through independent analysis.

Citizen watchdogs empower the Commission to fulfill its stated objectives through completion of fundamental investigation *at no cost to taxpayers*. More timely, higher-resolution reporting would create a waterfall effect whereby some individual investors analyze the data and make that analysis publicly available for free, which is then disseminated widely and re-analyzed, spurring more activity. This allows individual investors to help each other, and allows busy working families to be the recipient of aid for free. People must be free to protect themselves.

Working families do not have the resources to buy data and analysis, and often they do not have the time to analyze data themselves. The Commission must not remain ignorant of how social media facilitates a protective web of information sharing that protects investors. The Commission must not behave as though they are ignorant of how greater data provision empowers whistleblowers, who extend the Commission's reach and greater empower it to meet its strategic goals.

Protection Over Profiteering

Proposed rule 10c-1 is an incredibly encouraging step toward investor protection, safer markets, and whistleblower empowerment. While funds and firms who currently enjoy extreme financial benefits from secret short selling and other securities lending practices may oppose this rule in many ways, their judgment is clearly compromised by significant financial conflicts of interest.

The rule as proposed empowers individual investors and working families to protect themselves and each other through greater awareness of the risks inherent to the investments they make. The rule places more emphasis on real investors and less emphasis on traders and short sellers. The rule as-written is strongly in line with both the Commission's stated top priorities and its new strategic direction. Allowing the rule to be weakened or even eliminated would be a profound disservice to the investing public that would reveal a commitment to profiteering over protection that could shake public confidence in the markets.

Short sellers profit from - and are incentivized to create - falling markets. Short sellers celebrate while working families suffer; this dynamic is happening right now, as you are reading this.

It is my sincere hope that the Commission does not prioritize profiteering by traders over the protection of investors. Do not compromise the integrity of this rule.

Sincerely,

A Concerned Investor