

i am an investor and i would like to be assured that the stock that i have purchased is in the custody and control of my broker on my behalf. further, if i have any cash in my account, i also want that in the custody and control of my broker.

my broker is my agent. as such, i want my agent to act responsibly on my behalf. further, all correspondent brokers of my broker are their customers.

i am quite concerned that this has not been true of the broker-dealer practices in the past.

there has been a practice of naked shortselling in the stock market. this has been funded through margins at the clearinghouse level. the registered clearinghouses also report statistics to the government and FINRA, but several brokers have chosen to "internally settle" trades and may not have reported trades. i have also noticed a flurry of broker-dealers offering clearinghouse services to other brokers. this concerns me about margins 1) at the clearinghouse with the clearinghouse and the broker, 2) at another clearinghouse, transaction reporting, clearing and settlement within market deadlines. such shortselling trading may have resulted in the short being put in an debt/equity swap instead of clearing the transaction.

citation:

SECURITIES EXCHANGE ACT OF 1934

Release No. 64862 / July 12, 2011

ADMINISTRATIVE PROCEEDING

File No. 3-1446

ORDER INSTITUTING

ADMINISTRATIVE AND CEASE-AND-DESIST PROCEEDINGS

PURSUANT TO SECTIONS 15(b) AND

21C OF THE SECURITIES

EXCHANGE ACT OF 1934, MAKING

FINDINGS, AND IMPOSING

REMEDIAL SANCTIONS AND A

CEASE-AND-DESIST ORDER

re: jennifer kim and larry feinblum at morgan stanley

over an extended period of years, if any debt/equity swaps have not been bought in, this would inflate the # of shares trading in the market for each symbol. this practice might explain the increasing volume of shares trading. but if this happened, it is not very likely that all investors who have purchased shares actually have shares controlled and in custody of their brokers for the investor.

the debt/equity swaps are actually debts to the investors of that stock. if the short shares have not been bought in within a timely manner, the broker that owes those shares deprived the entire investing public of the value of that symbol's shares, if they had not been shorted in the first place. worse, the broker that should have received those shares did not buy them in, and instead allowed the selling broker to place the short shares in limbo, without the restriction of required

market deadlines. in other words the buying broker was abrogating their duty to their customer in favor of their loyalty to the selling broker. worse, placing a short share in a debt/equity swap meant that there were no market deadlines to settle the trade, the broker and customer's margin was increased as if the risk were 0. and it was 0. because the share no longer had any pressure to be bought in. this also meant that there was one more share which was not issued by the company but was trading in the market - the imaginary share bought by the buyer. the buying broker did not have custody and care of this imaginary share because it is not real. further, the buyer could sell this share to someone else and neither the new seller nor the buyer knew it was an imaginary share. it is simply a bookkeeping entry. and the float has just increased, although the company has not issued a share.

i am an accountant. i know what happens if no one takes physical inventory for many years. the inventory errors compound over time. have these bookkeeping entries, at the clearinghouse, at the brokers, been verified? were the shares in debt/equity swaps counted as real shares? they are not real shares. they have no right to vote, receive dividends. these imaginary shares have devalued the price of the real shares, robbing all the investors.

how is this practice continuing? looking at the financial statements of the brokers who file annual public financials, i see that there are problems with AR and AP. i see phrases such as "net AR" and no explanation about this. i see that AP is often much larger than AR. i see categories like payables owed to customers. how does this happen? how does the broker owe their customers anything? individual brokers cannot borrow from their customers. but customers are knowingly lending their money to the broker? i am a cash customer. i didn't lend my broker any money, that i know of. however, i am quite certain that my cash/stock portfolio is impaired by my broker's financial position. the brokers do not appear to be solvent to me, as an industry.

how is this shortselling continuing to happen? who is funding it? if the current assets are less than current liabilities for most of the brokers, there should be no margin to fund shortselling. is the long-term assets funding this? are those long-term assets in debt/equity swaps or are still in the care and custody of the broker? no one knows.

and how does the clearinghouse calculate those margins? no one knows.

this indicates brokers' margins are impaired:

DTCC Unit Making Extra Margin Calls

<http://www.securitiestechologymonitor.com/news/nscc-dtcc-clearing-28618-1.html>

maybe the portfolios of their customers are segregated but used to calculate margins, used to fund debt/equity swaps. if those debt/equity swaps are not bought in, those portfolios are non-existent. oh, sure, if one or two customers ask for their stock to be sent to them, the broker might be able to rustle up some shares. but if all customers request their portfolios, it appears that the broker would not be able to produce them.

i think this system of bookkeeping entries for tracking shares really got rolling when the clearinghouse didn't want to match shares with the trades. while this should have signalled trouble in the stock market, the clearinghouse decided to ease the problem by just keeping track of bookkeeping entries. and now the customer's and the broker's assets are measured against the short positions to determine whether there is enough margin exists to fund a trade. worse, if the margin is deficient, brokers can "borrow" shares to continue to fund the shortselling.

does anyone think that there are really enough shares to borrow in the whole stock market to fund 50% short? this 50% short doesn't spread over the market evenly. it funds bear raids on particular stocks. today, a bunch of people short one stock, tomorrow they try to buy in and move on to shorting another stock. it is a conspiracy. doesn't this mean that most stocks are undervalued because they are generally shorted down? this doesn't provide liquidity. this steals \$.

citation:

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-64383; File No. 4-627]

Short Sale Reporting Study Required by Dodd-Frank Act Section 417(a)(2)

In the Division's estimation, data made public by certain self-regulatory organizations ("SROs") indicate that orders marked "short" under current regulations account for nearly 50% of listed equity share volume.<sup>3</sup>

page 3 of this study

further, reviewing the liabilities of many brokers' financial reports, it appears to me that the revenue that is generated cannot repay the liabilities reported in the financials of many brokers. shouldn't auditors be citing going concern issues?

so what is the plan? how do the brokers buy in all the debt/equity swaps? when do the brokers start taking inventory of their customers' portfolios? what will happen if the brokers don't have enough stock and don't have enough margin to buy in the missing shares? do the customers take a number and wait until year 7, month 3, day 5 to get their shares? do you think the customers of the correspondent brokers will buy in, if prices go up?

the shortselling \$ is not in the market. it is a capital outflow from the market. are foreign shortselling brokers rich? or do the foreign shortsellers also withdraw their profits from shorting? you realize that many brokers have credit lines at banks, so the banks are not safe either.

it appears to me that there are black holes that hold the debts to the investing public but the investing public just hands their wallet over to the shortsellers. investors largely pay cash. margin customers will "lose" their investment by their stocks losing 50% of the value, as if this has not already occurred. cash customers will lose the investment by the shortselling shorting stocks down continually. this is the whole point of all the taunts on financial messageboards.

the short sellers are saying "give me your \$". and, so far, we have no choice but to do that to keep SOME of our investment.

so where do you think we should put our investment \$. in banks? in real estate? in gold? in mutual funds (which depend on individual stock prices)? under our mattress?

the SEC should be much more forthright about when a rule will be implemented. they should not have secret deadlines or secret schedules. and they should not move deadlines.

if a broker cannot meet the deadlines, they should stop doing business until they can. most of the proposed rules are restatements of rules that the brokers have not been following.

one quarter with a broker audit will tell you all you need to know about the position of brokers, the stock market. the broker audits MUST be done. during this audit, massive infusions from correspondent brokers should not bolster broker assets because they are customers.