

**The International Association of Small Broker Dealers and Advisors**

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The International Association of Small Broker-Dealers and Advisers submits this additional comment letter to address issues that have arisen since its original comment. Reports in the press suggest that the SEC may be inclined to consider reinstating the uptick rule or implementing circuit breakers, whereby if a particular stock dropped by some large amount, then, under the proposal, short selling in the stock would be banned for the rest of the day. Also, if some index such as the S&P 500 dropped by a large amount, then short selling would be halted in all securities for the rest of the day. While both of these ideas merit serious review they may also run counter to both the hard close and initial pre borrow many have recommended. If a prospective short seller knows that it may be prohibited from consummating a trade-there is little incentive to pre borrow or for lenders to decrement their inventory. Whatever arguments for flexibility in the locate process exist, the possibility of being prohibited from trading is certainly the best. This dichotomy raises a fundamental issue in regulating abusive short selling: namely post trade or pre trade limits. With the elimination of the tick test the only pre- trade restriction is the locate perhaps the weakest rule in the entire regulatory arsenal. The tick test and circuit breakers come after stock must be located or borrowed thereby making the locate or borrow of no use. We continue to believe that a firm locate or pre borrow gives certainty to the trading process and nullifies the need for ticks or circuit breakers, if aggressively enforced. It reduces liquidity but ticks and circuit breakers eliminate liquidity completely.

We also are concerned about the lack of transparency for those trades that are ex clearing and not subject to Reg.SHO. Many of our correspondents suggest that the percentage of these trades is much greater than the staff originally thought. In order to rebut this notion the commission should require some transparency for this outlier.

Finally we believe there is some confusion about how Reg SHO applies to intraday trading. We believe the issue was settled in the Ko case, Securities Exchange Act Of 1934, Rel. No. 48550 / September 26, 2003. However it would be helpful for the commission to reaffirm its findings therein.

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